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April 17, 2019

VIA FEDERAL EXPRESS

United States Environmental Protection Agency
EPA Region 2
290 Broadway
17th Floor
New York, NY 10007-1866

Attn: Kathryn Deluca, Assistant Regional Counsel

Re: Diamond Alkali Superfund Site (Lower Passaic River)
Our File: 06378

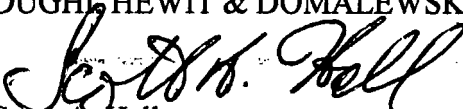
Dear Ms. Deluca:

We represent Congoleum Corporation in connection with the above matter.

Enclosed is a Supplemental and Amended Response of Congoleum Corporation to its Response to the EPA's 104(e) Request for Information regarding the Diamond Alkali Superfund Site, dated January 15, 1998.

Sincerely yours,

DUGHI, HEWIT & DOMALEWSKI


Scott A. Hall
shall@dughihewit.com



SUPPLEMENTAL AND AMENDED RESPONSE OF CONGOLEUM CORPORATION
TO REQUEST FOR INFORMATION OF THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGARDING
DIAMOND ALKALI SUPERFUND SITE AND PASSAIC RIVER STUDY AREA

**AMENDED EXHIBIT 1
AMENDED CORPORATE HISTORY OF CURRENT CONGOLEUM**

Exhibit 1, Corporate History of Congoleum, attached to Congoleum's Responses to the EPA's 104(e) Request for Information dated January 15, 1998, is deleted in its entirety and replaced with this Amended Exhibit 1, Amended Corporate History of Current Congoleum.

INTRODUCTION

As stated in the "Congoleum Introduction" in its Responses to the EPA's 104(e) Request for Information dated January 15, 1998, at the time Congoleum prepared its responses, "[T]here [were] no current Congoleum employees with personal knowledge concerning the manufacturing operations of the former Kearny Facility, and Congoleum's responses to the Request for Information [were], therefore, necessarily limited and qualified to be based upon information and belief (not personal knowledge) and what was discovered through documents and from interviews of former employees in the exercise of due diligence."

Since the time of preparation and certification of Congoleum's Responses to the EPA's 104(e) Request for Information, the company has received documents which require a Supplemental and Amended Response to the EPA's 104(e) Request for Information. In particular, Congoleum supplements and amends "Exhibit 1, Corporate History of Congoleum" as well as responses to any and all questions as necessary to make all responses with regard to the corporate history of Current Congoleum consistent with this Amended Exhibit 1, Amended Corporate History of Current Congoleum.

The corporation currently known as Congoleum Corporation and the company which was served with and served Responses to the EPA's 104(e) Request for Information dated January 15, 1998 ("Current Congoleum") was created as a result of a series of reorganizations and corporate transactions by an entity known as Congoleum Industries, Inc. assigning certain defined assets and liabilities of one of its subsidiaries to Current Congoleum in 1986 ("1986 Transaction"). At the time that Robert G. Rucker, Director of Environmental Affairs, certified Current Congoleum's Responses to the EPA's 104(e) Request for Information, to the best of Current Congoleum's knowledge, information and belief, Mr. Rucker was not in possession of and had not reviewed the 1986 Transaction documents.¹ More recently, Current Congoleum has obtained and reviewed the 1986 Transaction documents.

¹ As used herein, the 1986 Transaction documents not in possession of Mr. Rucker in January 1998, included but were not limited to, the April 18, 1986 Instrument of Assignment and Assumption between 1984 Congoleum and Resilco, the April 18, 1986 Instrument of Assignment and Assumption between 1984 Congoleum and Congoleum Industries and the July 1, 1986 Agreement of Plan of Merger by and Among Resilient Holdings Incorporated,

Based on a review of the 1986 Transactional documents, Current Congoleum is not the corporate successor to any company, whether a parent or subsidiary company, or other entity or person who owned or operated any manufacturing facilities on property in Kearny, New Jersey, including but not limited to property or manufacturing facilities owned and operated by companies formerly known as United Roofing & Manufacturing Company, Barrett Co., Inc., Congoleum Co., The Congoleum Corporation of PA, Congoleum Co., Inc., Nairn Linoleum Manufacturing Corporation, Congoleum Nairn, Inc., Bath Industries, Inc., Congoleum Corporation ("1968 Congoleum"), Congoleum Industries, Inc., Congoleum Corporation ("1975 Congoleum"), Congoleum Corporation ("1980 Congoleum"), Congoleum Industries, Inc. ("1984 Congoleum Industries"), Congoleum Corporation ("1984 Congoleum") or Bath Iron Works Corporation. Current Congoleum is not legally responsible for the alleged environmental liabilities at the Diamond Alkali Superfund Site and Passaic River Study Area arising from the former "Congoleum" Kearny Manufacturing Facilities and/or the operations of prior but unrelated entities also known as "Congoleum."

Current Congoleum has asserted this position in the following lawsuits: *DVL, Inc., et al. v. Congoleum Corporation, et al.*, United States District Court, District of New Jersey, Civil Action No. 2:17-cv-04261; *Bath Iron Works v. Congoleum Corporation*, United States District Court, District of Maine, Case 2:18-cv-00405. Current Congoleum will also assert this position in the Lower Passaic River Study Area Operable Unit No. 2 ("OU2") Allocation Proceedings conducted by David Batson (Allocation Specialist, AlterEcho) at such time that Factual Statements and responses to an Initial Allocation Questionnaire are filed with the Allocation Specialist.

CURRENT CONGOLEUM'S CORPORATE HISTORY

A. Current Congoleum

Current Congoleum was formed in 1986 for the limited purpose of purchasing only those certain assets "belonging to Congoleum [1984 Congoleum as defined below] and which are utilized in the business conducted by its Resilient Flooring Division *on the date hereof*" [April 18, 1986] (emphasis added) and Current Congoleum assumed only those certain liabilities "directly related to the Transferred Assets existing *as of the date hereof* and the business conducted by Congoleum's Resilient Flooring Division *on the date hereof*." (emphasis added). See April 18, 1986 Instrument of Assignment and Assumption between 1984 Congoleum (as defined below) and Resilco, attached as Tab 1.

The assets of 1984 Congoleum that then existed and were then being used in the 1984 Congoleum Resilient Flooring Division as of April 18, 1986 did not include the Kearny Manufacturing Facilities, and Current Congoleum did not assume any liabilities arising from assets that were not assigned to it, including but not limited to the Kearny Manufacturing Facilities that were sold to unrelated third parties years prior to the 1986 Transaction. Liabilities

Resilient Acquisition Incorporated, 1984 Congoleum and Congoleum Industries, Inc., which are discussed, *infra* at pages 4 – 5.

arising from assets not assigned to Current Congoleum in April of 1986 were expressly assumed by and remained with the selling corporation, which after the 1986 Transaction was merged into Bath Iron Works Corporation ("BIW"). See April 18, 1986 Instrument of Assignment and Assumption between 1984 Congoleum and Congoleum Industries, attached at Tab 5. See also Section B, Bath-Congoleum Corporate History, 1986 Transaction and Assets Transferred and Liabilities Assumed in the 1986 Transaction, *infra* at pp. 4 to 5. Such liabilities retained and assumed by the selling corporation included, but were not limited to, liabilities related to the Kearny Manufacturing Facilities.

The corporate entities that owned and/or operated the Kearny Manufacturing Facilities, and which previously manufactured products in Kearny, New Jersey under the brand name "Congoleum," did business under the names Congoleum-Nairn, Inc., Congoleum Industries, Inc., Congoleum Corporation and/or Congoleum as a division or subsidiary of these other Congoleum entities, Bath Industries, Inc., and/or Bath Iron Works Corporation ("BIW") (jointly, "Bath-Congoleum"). Current Congoleum is a corporation formed in 1986 by persons different than and unassociated with any persons previously associated with Bath-Congoleum. Current Congoleum was formed for the purposes of completing a transaction by which certain, defined assets and liabilities of Bath-Congoleum were assigned to Current Congoleum. The transferred assets existing and used in the business of Bath-Congoleum² as of April 18, 1986, did not include the Kearny Manufacturing Facilities² and assumed liabilities did not include any liabilities arising from, related to or associated with assets that were not transferred and assigned to Current Congoleum. Current Congoleum never owned or operated the Kearny Manufacturing Facilities and is not the successor to Bath-Congoleum or any owners/operators of the former Kearny Manufacturing Facilities with regard to the liabilities arising from the Kearny Manufacturing Facilities, including but not limited to environmental liabilities alleged by EPA as part of the Diamond Alkali Superfund Site and Operable Unit No. 2 of the Lower Passaic River Study Area ("OU2").³

² As used herein, "Kearny Manufacturing Facilities" includes all of the property (and equipment associated with the manufacturing of "Congoleum" product (linoleum flooring, bulletin board cork, asphalt tile, vinyl tile, vinyl desk tops, linoleum paste, and military products during WW II (tent cloth, rocket/torpedo parts, bomb casings/parts, mildew proof sandbags, camouflage netting, synthetic leather and other materials) in Kearny, New Jersey and any other products historically manufactured under the brand name "Congoleum" in Kearny, New Jersey) and all property and equipment used for or associated with the storage and warehousing of raw materials and final product in Kearny, New Jersey. See Property Ownership Map and statements included therein, including but not limited to Kearny Facility Maps, attached at Tab 2. "Kearny Manufacturing Facilities" does not include the administrative building (Building 37) or a research lab (Building 33), hereinafter referred to as the "Kearny Administrative Facilities." See *id.*

³ Current Congoleum did own a small administrative building that had been previously owned by Bath-Congoleum, but that administrative building was never used for manufacturing. Current Congoleum used the building for administrative purposes only from April 18, 1986 until that property was sold on March 18, 1987. There are no allegations and there is no evidence that any of the OU2 Chemicals of Concern ("COCs") or any other hazardous substances were ever used, stored, generated, or discharged at or from this administrative building. See Property Ownership Map and statements included therein, including but not limited to Kearny Facility Maps, attached at Tab 2.

B. Bath-Congoleum Corporate History, 1986 Transaction and Assets Transferred and Liabilities Assumed in the 1986 Transaction

Bath-Congoleum owned and operated the Kearny Manufacturing Facilities and manufactured resilient flooring products ("Resilient Flooring Operations") beginning in or about 1886. In 1968, Congoleum-Nairn, Inc., merged with Bath Industries, Inc. See July 10, 1968 Bath Industries, Inc. and Congoleum-Nairn, Inc., Plan and Agreement of Merger, attached at Tab 3. The merged entity changed its name to Congoleum Corporation ("1968 Congoleum"), and continued to own and operate the Kearny Manufacturing Facilities. Between 1980 and 1984, this Bath-Congoleum entity engaged in a series of corporate transactions that re-structured its businesses into different subsidiaries and divisions. As a result of this re-structuring, the assets and liabilities related to the Resilient Flooring Operations, including the liabilities associated with the Kearny Manufacturing Facilities, were transferred to a newly formed entity that was also subsequently named Congoleum Corporation ("1984 Congoleum"). The 1968 Congoleum Corporation (the result of the merger between Congoleum-Nairn, Inc., and Bath Industries, Inc.) changed its name to Congoleum Industries, Inc. ("Congoleum Industries") and remained as the parent corporation of 1984 Congoleum (as well as other subsidiary businesses part of the corporate restructuring).

In April 1986, Congoleum Industries determined to sell the certain, defined assets of several of its wholly owned subsidiaries to third parties, including certain defined assets of 1984 Congoleum. The sale of the certain defined assets of 1984 Congoleum's resilient flooring business was accomplished as follows:

1. 1984 Congoleum formed a new corporation on March 31, 1986 named Resilco, Inc. See March 31, 1986 Certificate of Incorporation forming Resilco, Inc., attached at Tab 4.
2. 1984 Congoleum then transferred to Resilco, Inc. the "Transferred Assets," defined as "all of the rights, properties, assets, and contracts . . . "belonging to [1984] Congoleum and **which are utilized in the business conducted by its Resilient Flooring Division on the date hereof . . .**" See April 18, 1986 Instrument of Assignment and Assumption between 1984 Congoleum and Resilco, attached at Tab 1 (Emphasis added).⁴
3. Resilco assumed only those liabilities "**directly related to the Transferred Assets existing as of the date hereof and the business conducted by [1984] Congoleum's Resilient Flooring Division on the date hereof.**" [April 18, 1986]." See *id.*, attached at Tab 1 (Emphasis added).
4. 1984 Congoleum transferred to Congoleum Industries all of the capital stock of Resilco and all of the rights, assets and businesses of 1984 Congoleum that were not transferred and assigned to Resilco, and Congoleum Industries expressly

⁴ In April 1986, the manufacturing assets belonging to and used in the business of 1984 Congoleum and transferred to Current Congoleum were the manufacturing facilities and equipment located at 861 Sloan Avenue in Trenton, New Jersey, on Ridge Road in Marcus Hook, Pennsylvania, and in Finksburg, Maryland.

assumed "all other liabilities and obligations of [1984] Congoleum" that were not assumed by Resilco. *See* April 18, 1986 Instrument of Assignment and Assumption between 1984 Congoleum and Congoleum Industries, attached at Tab 5.

5. After completion of the transfer of those certain assets utilized in the resilient flooring business as of April 18, 1986, Resilco changed its name to Congoleum Corporation ("1986 Congoleum", aka Current Congoleum). *See* April 20, 1986, Amendment to the "Resilco" Certificate of Incorporation, attached at Tab 6.
6. Third party purchasers (Hillside Capital Incorporated) formed a new company named Resilient Acquisition Incorporated. *See* June 25, 1986 Certificate of Incorporation forming Resilient Acquisition Incorporated, attached at Tab 7.
7. Resilient Acquisition Incorporated then "purchased" the Transferred Assets and assumed the liabilities "directly related to the Transferred Assets existing as of [April 18, 1986]" via a merger into 1986 Congoleum, aka Current Congoleum. *See* July 1, 1986 Agreement of Plan of Merger by and Among Resilient Holdings Incorporated, Resilient Acquisition Incorporated, Congoleum Corporation and Congoleum Industries, Inc., attached at Tab 8.
8. 1984 Congoleum merged into Congoleum Industries (the selling parent company), Congoleum Industries changed its name to BIW Industries, Inc. and then BIW Industries merged into Bath Iron Works Corporation (BIW). *See* August 18, 1986, Certificate of Amendment of Restated Certificate of Incorporation of Congoleum Industries, attached at Tab 9.

The Kearny Manufacturing Facilities had been sold by Bath-Congoleum years prior to the 1986 Transaction, were not assets owned by or used in the business of 1984 Congoleum in April 1986 and were not assets transferred to Current Congoleum. Current Congoleum assumed only those liabilities directly related to the assets transferred, and it did not assume liabilities related to assets that were not transferred. Bath-Congoleum (Congoleum Industries, now d/b/a BIW) expressly assumed the liabilities of 1984 Congoleum not transferred to Current Congoleum per the Instrument of Assignment and Assumption between 1984 Congoleum and Congoleum Industries. *See* April 18, 1986 Instrument of Assignment and Assumption between 1984 Congoleum and Congoleum Industries, attached at Tab 5.

CERTIFICATION OF
SUPPLEMENTAL AND AMENDED RESPONSE OF CONGOLEUM CORPORATION
TO
REQUEST FOR INFORMATION
OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGARDING
DIAMOND ALKALI SUPERFUND SITE AND PASSAIC RIVER STUDY AREA

State of New Jersey:

County of Mercer:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (supplemental response to EPA Request for Information) and all documents submitted herewith, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

I am also aware that my company is under a continuing obligation to supplement its response to EPA's Request for Information if any additional information relevant to the matters addressed in EPA's Request for Information or the company's response thereto should become known or available to the company.

NAME: James Monyak
TITLE: Vice President, Administration
Congoleum Corporation

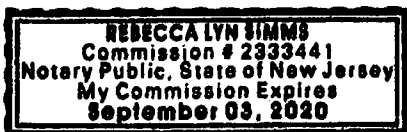
SIGNATURE:

James Monyak

Sworn to before me this
8th Day of April 2019

Rebecca Lynn Simms

Name:
Notary Public



INSTRUMENT OF ASSIGNMENT AND ASSUMPTION

THIS INSTRUMENT OF ASSIGNMENT AND ASSUMPTION made, executed and delivered this 18th of April, 1986, by CONGOLEUM CORPORATION, a Delaware corporation ("Congo-leum"), and RESILCO, INC., a Delaware corporation ("Resilient").

Congoleum by this Instrument does hereby transfer, assign, convey and deliver unto Resilient, its successors and assigns forever, all of the rights, properties, assets, and contracts of every kind, character and description, whether tangible or intangible whether real, personal, mixed or otherwise, and wheresoever situated, belonging to Congoleum and which are utilized in the business conducted by its Resilient Flooring Division on the date hereof (the "Transferred Assets") to have and to hold forever. Congoleum hereby authorizes Resilient to take any appropriate action to protect the right, title and interest hereby conveyed in connection with the Transferred Assets hereby transferred, assigned, conveyed and delivered to Resilient in the name of Congoleum or Resilient or any other name (but for the benefit of Resilient and its successors and assigns) against each and every person or persons whomsoever claiming or asserting any claim against any or all of the same.

Congoleum covenants that it will from time to time at its expense make, execute and deliver, or cause to be made, executed and delivered, such instruments, acts, consents and assurances as Resilient may reasonably request more effectively to transfer, assign, convey, and deliver to, and to vest in, Resilient all of the Transferred Assets being transferred, assigned, conveyed and delivered hereunder and to put Resilient in possession and control of any such property and assets and, in the case of contracts and rights, if any, which cannot be effectively transferred, conveyed or assigned to Resilient without the consent of third parties not heretofore obtained, to endeavor to obtain such consents promptly, and if any be unobtainable, to use its best efforts to assure to Resilient the benefits thereof.

In connection with such transfer, assignment, conveyance and delivery of the Transferred Assets, Resilient by this Instrument hereby undertakes, assumes and agrees that it will perform, pay or discharge all liabilities and obligations of Congoleum (known or unknown and whether absolute, accrued, contingent or otherwise) directly related to the Transferred Assets existing as of the date hereof and the business conducted by Congoleum's

Resilient Flooring Division on the date hereof, whether asserted before or after such time.

The assumption by Resilient of the liabilities and obligations of Congoleum pursuant to the preceding paragraph shall not be construed to defeat, impair or limit in any way any rights or remedies of Resilient to contest or dispute the validity or amount thereof, provided that Resilient will indemnify and hold harmless Congoleum from any liability which Resilient causes to be contested or disputed.

For the consideration aforesaid, Resilient, for itself and its successors and assigns, has covenanted, and by this Instrument does covenant, with Congoleum, its successors and assigns, that Resilient and its successors and assigns, will do, execute and deliver, or will cause to be done, executed and delivered, all such further acts and instruments which Congoleum may reasonably request in order more fully to effectuate the assumption of liabilities provided for in this Instrument.

The parties hereto further covenant and agree that the covenants herein contained shall be binding upon their respective successors and assigns and shall inure to the benefit of their respective successors and assigns.

IN WITNESS WHEREOF, this Instrument has been
duly executed and delivered by the duly authorized offi-
cers of Congoleum Corporation and Resilco, Inc. on the
date first above written.

CONGOLEUM CORPORATION

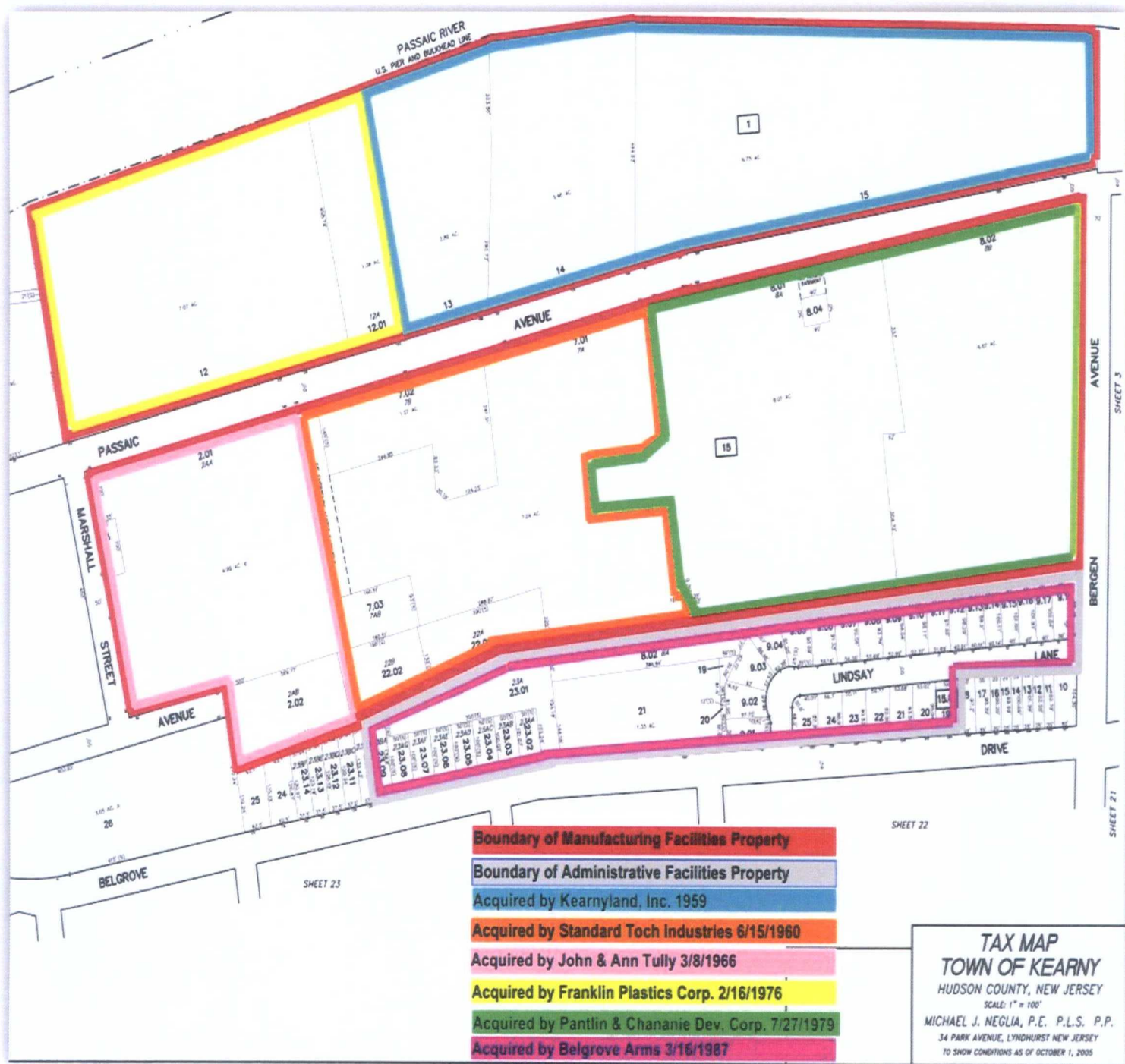
By

Henry M. Star
Title: *Vice President*

RESILCO, INC.

By

Henry M. Star
Title: *Vice President*



As reflected above and as described in more detail below, the entirety of the Kearny Manufacturing Facilities and Kearny Administrative Facilities were sold over time to the following entities. Block and Lot number references herein were obtained from an October 1, 2005, Tax Map of the Town of Kearny, Hudson County, New Jersey, attached as Exhibit A.

Town of Kearny Block and Lot designations have changed several times since the Facility was in operation. Accordingly, references to Block and Lot numbers are approximate.

(1) 1959 - Kearnyland, Inc. (Block 1, Lots 13, 14 and 15). Kearnyland and/or its successors ultimately used this property as a "Two Guys" department store. *See* November 5, 1959 Deed and note on final page "These 2 descriptions make up the 2 Guy's Prop." attached at Exhibit B.

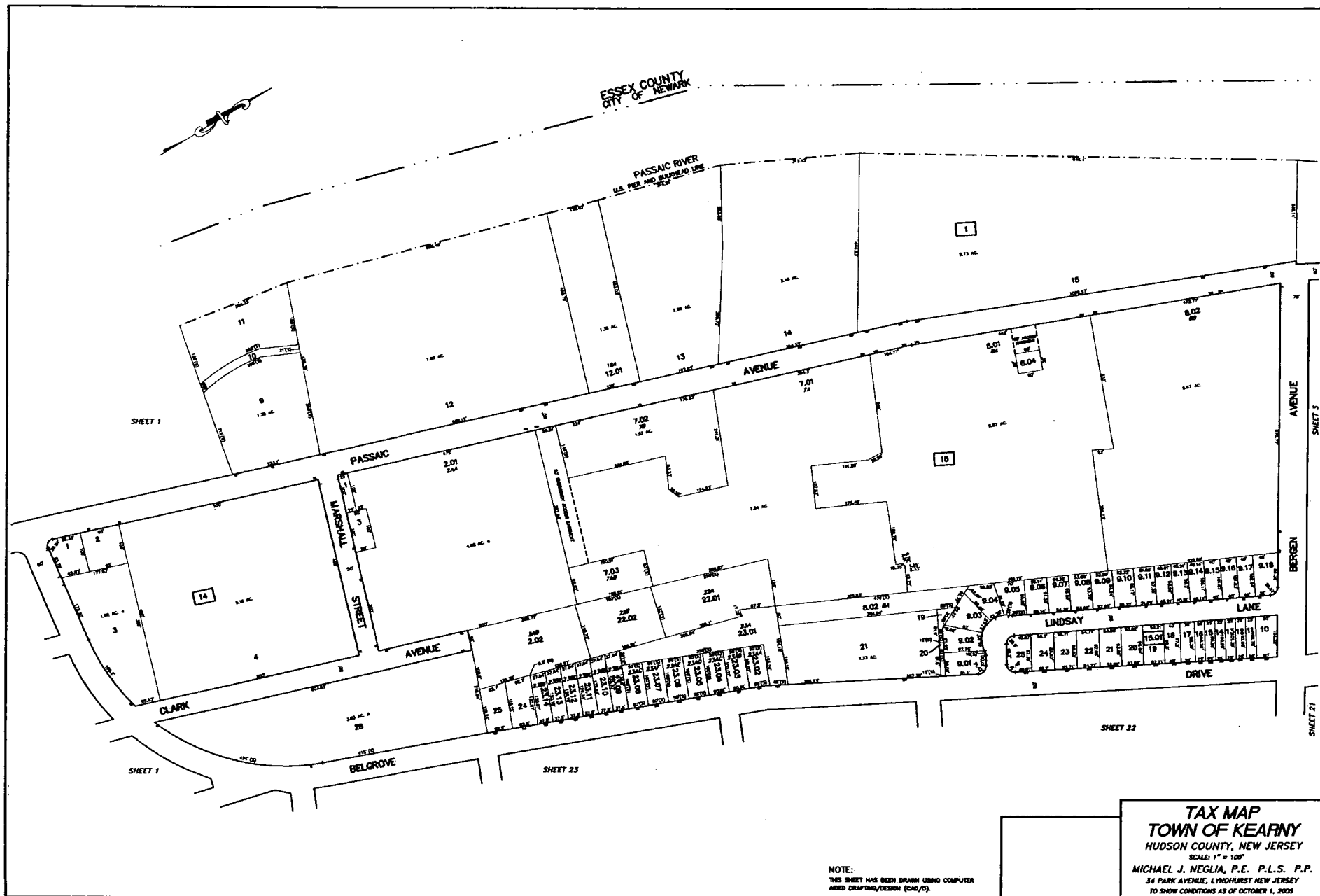
(2) 1960 - Standard Toch Industries, Inc. (Block 15, Lots 2.01, 2.0 2, 7.01 and 7.02). *See* June 15, 1960 Deed, attached at Exhibit C. This property was used by Bath-Congoleum entities in connection with the manufacture of straight line linoleum (Building 31 and Building 114). *See* Kearny Facility Site Maps, attached at Exhibit D. Since this sale almost 60 years ago, Standard Toch Industries, Inc., and/or its successors rented the property to numerous tenants, including entities that manufactured adhesives, purchased PCBs, and allegedly discharged hazardous substances.

(3) 1966 - John & Ann Tully (Block 15, Lots 1 and 3). *See* March 8, 1966 Deed, attached at Exhibit E. This property was primarily operated by Bath-Congoleum entities as a recreational field. The Tully's and/or their successors ultimately used this property as a "Shoprite" shopping center. *See* Kearny Facility Site Maps, attached at Exhibit D.

(4) 1976 - Franklin Plastics Corp. (Block 1, Lots 12 and 12.01). *See* February 16, 1976 Deed, attached at Exhibit F. This property was used by Bath-Congoleum entities in connection with the manufacture of tile products (Building 115). *See* Kearny Facility Site Maps, attached at Exhibit D. Franklin Plastics and its successors used this property to operate a plastic manufacturing business that included, among other things, mixing various colorants stabilizers and plasticizers with vinyl resin in a batch mixer to create an extruded plastic material. *See* November 2016 Franklin Plastics Remedial Action Workplan, attached at Exhibit G.

(5) 1979 - Pantlin & Chananie Development Corp. (Block 15, Lots 7.03, 8.01, 8.02, 8.04, 22.01 and 22.02). *See* July 27, 1979 Deed, attached at Exhibit H. This property was used by Bath-Congoleum entities in connection with the manufacture of linoleum (Building 2), linoleum cement (Building 8), and other products. *See* Kearny Facility Site Maps, attached at Exhibit D.

(6) March 16, 1987 - The Kearny Administrative Facilities , which included the administrative building (Building 37) and operation of a small lab (Building 33), was sold by Current Congoleum to Belgrove Arms by deed dated March 13, 1987 (Block 15, Lots 19, 20, and 21) *See* March 13, 1987 Deed, attached at Exhibit I.



NOTE:
THIS SHEET HAS BEEN DRAWN USING COMPUTER
AIDED DRAFTING/DESIGN (CAD/D).

TAX MAP
TOWN OF KEARNY
HUDSON COUNTY, NEW JERSEY
SCALE: 1" = 100'
MICHAEL J. NEGLIA, P.E. P.L.S. P.P.
34 PARK AVENUE, LYNDHURST NEW JERSEY
TO SHOW CONDITIONS AS OF OCTOBER 1, 2005

LIBR 2807 PAGE 248 THIS INDENTURE, made the 6th day of November,

in the year One Thousand Nine Hundred and Fifty-nine,
between KEARNYLAND, INC.,

a New Jersey corporation, having its principal office
and place of business at 174 Passaic Street, Garfield, N.J.,
party of the first part, and VERNADO, INC., a KANSAS
corporation, having its principal office and place of
business at 1812 West Second Street, Wichita 1, Kansas,
party of the second part.

W I T N E S S E T H :

That the said party of the first part, for and
in consideration of TEN DOLLARS (\$10.00), lawful money
of the United States of America, and other good and
valuable consideration, to it in hand well and truly
paid by the said party of the second part, at or before
the sealing and delivery of these presents, the receipt
whereof is hereby acknowledged, and the said party of
the first part being therewith fully satisfied, con-
tented and paid, has given, granted, bargained, sold,
aliened, released, enfeoffed, conveyed and confirmed
and by these presents does give, grant, bargain, sell,
alien, release, enfeoff, convey and confirm unto the
said party of the second part, and to its successors,
legal representatives and assigns forever, the land
and premises described in Schedule A hereto attached
and made a part hereof.

INST NO
8077
CO. BLOCK
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BOOK PAGE
INDEX
INDEX
INDEX
COMPARER

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STAGS
220.00



1887 2807 101 251

AND those two certain tracts or parcels of land, with the buildings thereon, situate in the Town of Kearny, County of Hudson, State of New Jersey, hereinafter called the "Premises" and bounded and described as follows:

PARCEL 11-

BEGINNING at a point in the westerly line of Passaic Avenue where the same is intersected by the westerly extension of the center line of Bergen Avenue; thence

- (1) westerly north 56 degrees 53 minutes west and along the westerly extension of the center line of Bergen Avenue 238.80 feet to the U. S. Pierhead and Bulkhead Line; thence
- (2) along the Pierhead and Bulkhead Line south 36 degrees 19 minutes 50 seconds west 276.68 feet; thence
- (3) still along the Pierhead and Bulkhead Line south 33 degrees 25 minutes west 847.00 feet; thence
- (4) still along the Pierhead and Bulkhead Line south 27 degrees 11 minutes west 5.55 feet; thence
- (5) south 62 degrees 42 minutes east part of the way along the northerly face of a three story brick building 444.93 feet to the westerly line of Passaic Avenue; thence
- (6) along the westerly line of Passaic Avenue north 19 degrees 14 minutes east 136.58 feet; thence
- (7) still along the westerly line of Passaic Avenue north 23 degrees 59 minutes east 963.00 feet to the westerly extension of the center line of Bergen Avenue and the point and place of BEGINNING.

TOGETHER WITH all the right, title and interest, if any, of the party of the first part in and to (1) the land lying in the bed of any street, road or avenue, in front of or adjoining said premises, to the center line thereof, and (2) the land now or formerly lying under the tidewaters of the Passaic River, in front of and adjoining said premises.

PARCEL III

LIBER 2807 PAGE 252
BEGINNING at a point in the westerly line of Passaic Avenue at a point distant 1099.58 feet south of the westerly extension of the center line of Bergen Avenue; thence

- (1) north 62 degrees 42 minutes west part of the way along the northerly face of a three story brick building 474.93 feet to the U. S. Pierhead and Bulkhead Line; thence
- (2) along the Pierhead and Bulkhead Line south 27 degrees 11 minutes west 312.45 feet; thence
- (3) still along the Pierhead and Bulkhead Line south 16 degrees 17 minutes west 314.25 feet; thence
- (4) south 71 degrees 51 minutes east 463.03 feet to the westerly line of Passaic Avenue; thence
- (5) along the westerly line of Passaic Avenue north 18 degrees 09 minutes east 6.71 feet; thence
- (6) still along the westerly line of Passaic Avenue north 19 degrees 44 minutes east 545.40 feet to the point and place of BEGINNING.

TOGETHER WITH all the right, title and interest, if any, of the party of the first part in and to (1) the land lying in the bed of any street, road or avenue, in front of or adjoining said premises, to the center line thereof, and (2) the land now or formerly lying under the tidalwaters of the Passaic River, in front of and adjoining said premises.

RECEIVED
JAN 10 1908

6551 MAY 23 6 6 AM

RECEIVED

FIRST TRACT

BEGINNING at a point in the westerly line of Passaic Avenue where the same is intersected by the westerly extension of the center line of Bergen Avenue, thence (1) westerly North 56 degrees 53 minutes West and along the westerly extension of the center line of Bergen Avenue 238.80 feet to the U. S. Pierhead and Bulkhead Line; thence (2) along the Pierhead and Bulkhead Line South 36 degrees 19 minutes 50 seconds West 276.68 feet; thence (3) and still along the Pierhead and Bulkhead Line South 33 degrees 25 minutes West 847.00 feet; thence (4) and still along the pierhead and Bulkhead Line South 27 degrees 11 minutes West 5.55 feet; thence (5) South 62 degrees 42 minutes East parallel and along the northerly face of a three story brick building 444.93 feet to the westerly line of Passaic Avenue; thence (6) and along the westerly line of Passaic Avenue North 19 degrees 44 minutes East 136.58 feet; thence (7) and still along the westerly line of Passaic Avenue North 23 degrees 59 minutes East 963.00 feet to the westerly extension of the center line of Bergen Avenue and the point and place of BEGINNING.

Containing 8.7288 Acres.

SECOND TRACT

BEGINNING at a point in the westerly line of Passaic Avenue at a point distant 1099.58 feet south of the westerly extension of the center line of Bergen Avenue, thence (1) North 62 degrees 42 minutes West parallel and along the northerly face of a three story brick building 444.93 feet to the U. S. Pierhead and Bulkhead Line; thence (2) and along the Pierhead and Bulkhead Line South 27 degrees 11 minutes West 312.45 feet; thence (3) and still along the Pierhead and Bulkhead Line South 16 degrees 17 minutes West 314.25 feet; thence (4) South 71 degrees 51 minutes East 463.03 feet to the westerly line of Passaic Avenue; thence (5) and along the westerly line of Passaic Avenue North 18 degrees 09 minutes East 6.71 feet; thence (6) and still along the westerly line of Passaic Avenue North 19 degrees 44 minutes East 545.40 feet to the point and place of BEGINNING.

Containing 6.3165 Acres.

10-4-61
CHARLES HAND
THESE 2 DESCRIPTIONS MAKE
UP THE 2 GUY'S PROP. AS
SURVEYED BY MY OFFICE.
Henry J. [Signature]

LIBER 2851 PAGE 1
THIS INDENTURE, made the 15th day of June, 1960, between

CONGOLEUM-NAIRN INC., a New York corporation having its principal business office at Kearny, New Jersey, party of the first part, and STANDARD TOCH INDUSTRIES, INC., a Delaware corporation having an office at 2600 Richmond Terrace, Staten Island, New York, party of the second part,

WITNESSETH, That said party of the first part, for and in consideration of One Hundred Dollars (\$100), lawful money of the United States of America, and other good and valuable consideration, to it well and truly paid by said party of the second part at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, and said party of the first part being therewith fully satisfied, contented and paid, has given, granted, bargained, sold, aliened, released, enfeoffed, conveyed and confirmed, and by these presents does give, grant, bargain, sell, alien, release, enfeoff, convey and confirm unto the said party of the second part, and to its successors and assigns forever,

ALL those four certain tracts or parcels of land, with the buildings thereon, situate in the Town of Kearny, County of Hudson, State of New Jersey, hereinafter called the "Premises" and bounded and described as follows:



JUN 20 9 00 AM 1960

BLOCK 15 LOT 22

2401
2
LIBER 2831 PAGE
PARCEL 1:

COMMENCING at a point on the easterly line of Passaic Avenue being distant 883.72 feet northerly from the northerly line of Marshall Street; thence (1) South 64 degrees 34 minutes 45 seconds East, 286.67 feet; thence (2) North 63 degrees 25 minutes 15 seconds East, 58.13 feet to the true point and place of BEGINNING: thence (1) South 71 degrees 34 minutes 45 seconds East, 252.14 feet; thence (2) North 16 degrees 05 minutes East, 79.95 feet; thence (3) North 26 degrees 05 minutes East, 325.93 feet; thence (4) North 64 degrees 27 minutes 40 seconds West, 67.72 feet; thence (5) South 25 degrees 32 minutes 20 seconds West, 0.75 feet; thence (6) North 64 degrees 27 minutes 40 seconds West, 2.33 feet; thence (7) South 25 degrees 27 minutes 15 seconds West, 2.81 feet; thence (8) North 64 degrees 32 minutes 45 seconds West, 1.25 feet; thence (9) South 25 degrees 27 minutes 15 seconds West, 18.35 feet; thence (10) North 64 degrees 32 minutes 45 seconds West, 169.75 feet; thence (11) South 25 degrees 25 minutes 15 seconds West, 413.86 feet to the true point and place of BEGINNING.
CONTAINING 2.2224 Acres, more or less.

PARCEL 2:

BEGINNING at a point on the easterly line of Passaic Avenue being distant 883.72 feet northerly from the northerly line of Marshall Street; thence (1) South 64 degrees 34 minutes 45 seconds East,

286.67 feet; thence (2) North 63 degrees 25 minutes 15 seconds East, 58.13 feet; thence (3) North 25 degrees 25 minutes 15 seconds East, 238.37 feet; thence (4) North 64 degrees 20 minutes West, 107.82 feet; thence (5) North 25 degrees 33 minutes 45 seconds East, 141.28 feet; thence (6) North 2 degrees 55 minutes 27 seconds East, 38.98 feet; thence (7) North 64 degrees 31 minutes 45 seconds West, 246.10 feet to the easterly line of Passaic Avenue; thence (8) along the said easterly line of Passaic Avenue, South 19 degrees 44 minutes West, 464.45 feet to the point and place of BEGINNING. CONTAINING 3.1937 Acres, more or less.

PARCEL 3:

BEGINNING at a point on the easterly line of Passaic Avenue being distant 500.00 feet northerly from the northerly line of Marshall Street; thence (1) South 71 degrees 51 minutes East, 599.73 feet; thence (2) North 17 degrees 56 minutes 28 seconds East, 380.21 feet; thence (3) North 73 degrees 55 minutes West, 17.25 feet; thence (4) North 16 degrees 05 minutes East, 7.55 feet; thence (5) North 71 degrees 34 minutes 45 seconds West, 252.14 feet; thence (6) South 63 degrees 25 minutes 15 seconds West, 58.13 feet; thence (7) North 64 degrees 34 minutes 45 seconds West, 286.67 feet to the easterly line of Passaic Avenue, thence (8) along said easterly line of Passaic Avenue, South 19 degrees 44 minutes West, 109.72 feet to an angle point; thence (9) still along said easterly line of Passaic Avenue, South

18 degrees 09 minutes West, 274.00 feet to the point and place of BEGINNING. CONTAINING 5.1949 Acres, more or less.

PARCEL 4:

2401
LIBER 2831 PAGE 4

BEGINNING at a point on the easterly line of Passaic Avenue being distant 25.0 feet northerly from the northerly line of Marshall street; thence (1) South 71 degrees 51 minutes East, 100.00 feet; thence (2) North 18 degrees 09 minutes East, 25.00 feet, thence (3) South 71 degrees 51 minutes East, 150.00 feet to the north-east corner of Watts Street; thence (4) along the easterly line of Watts Street, South 18 degrees 09 minutes West, 50.0 feet to the northerly line of Marshall Street; thence (5) along the northerly line of Marshall Street, South 71 degrees 51 minutes East, 200.00 feet to the westerly line of Clark Avenue; thence (6) along the said westerly line of Clark Avenue, North 18 degrees 09 minutes East, 230.23 feet; thence (7) along the northerly line of Clark Avenue, South 71 degrees 51 minutes East, 50.0 feet; thence (8) South 67 degrees 21 minutes East, 100.60 feet; thence (9) North 18 degrees 09 minutes East, 125.39 feet; thence (10) North 17 degrees 56 minutes 28 seconds East, 152.27 feet; thence (11) North 71 degrees 51 minutes West, 599.73 feet to the easterly line of Passaic Avenue; thence (12) along the said easterly line of Passaic Avenue South 18 degrees 09 minutes

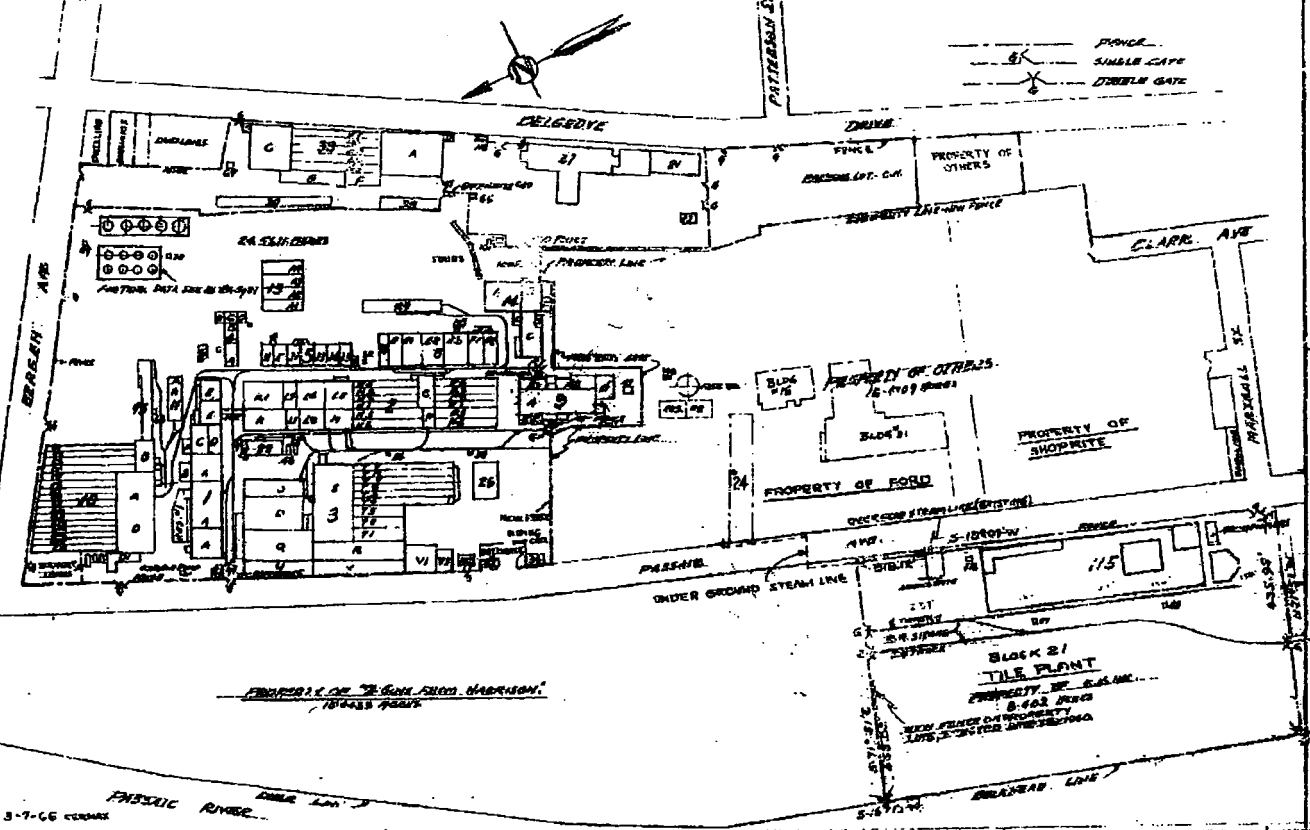
West, 475.0 feet to the point and place of BEGIN-
NING. CONTAINING 5.8599 Acres, more or less.

TOGETHER WITH the perpetual easement, right and privilege, reserved to the party of the first part in a certain deed made by the party of the first part to Kearnyland, Inc. dated January 15, 1959 and recorded in the Office of the Register of Deeds of Hudson County on January 19, 1959 in Book 2776 of Deeds at page 461, to maintain, on the premises thereby conveyed, the southerly two of the four sewers therein mentioned; but the party of the second part hereby covenants and agrees not to introduce into any such sewer any industrial waste or any thing other than storm water.

TOGETHER ALSO WITH the perpetual easement, right and privilege to maintain, in premises of the party of the first part adjoining the Premises on the east, the existing sewer draining into the northerly one of the two sewers last above mentioned. Provided the drainage effected by any such sewer is not thereby diminished, the party of the first part shall have the continuing right (so far as the party of the second part can grant such right) to relocate such sewer, elsewhere on said adjoining premises, at the sole cost and expense of the party of the first part (and upon any such relocation such easement shall obtain in the sewer as so relocated). The party of the first part shall also have the right (so far as the party of the second part can grant such right) to build over such sewer. If, in so doing, such

- 1 CORK MILL
- 2 MAINE - CEMENTS - STORES -
- 3 JERIMING - SHEDS - POLISHING - SOAP SHED.
- 4 OF. BOLLIG
- 5 DRYING - STORAGE
- 6 DRY - STORAGE
- 7 SOLVENT STORAGE
- 8 ADHESIVE - BINDER PROCESSING
- 9 DRYING ROOM
- 10 PASTE - WAS. MEG. - STORAGE
- 11 PASTE -
- 12 MACH. SHIP. ENG. LAB. - STORES - PIECE DRY
- 13 STORAGE
- 14 SALES PROMOTION - PATTERN DESIGN
- 15 STORAGE
- 16 PLANT OFFICE
- 17 STORAGE
- 18 STORAGE
- 19 CLEANING DEPT. - DRAFTS - LAYING SCHOOL
- 20 GENERAL OFFICE
- 21 35 - GARAGES
- 22 HOSE HOUSE - BELGRADE DRIVE
- 23 HOSE HOUSE - PRESSALE AVE.
- 24 HOSE - CART HOUSES
- 25 HOSE - 25 - 24 - 23 - HOSE HOUSES
- 26 STORAGE
- 27 C-3 - HOSE HOUSES
- 28 OIL PUMP HOUSE #2 ON HILL
- 29 UNION OFFICE
- 30 SEALING & WAXING
- 31 SERVICE ROOM
- 32 WATER HOUSE
- 33 OIL PUMP HOUSE
- 34 CONFERENCE BUILDING
- 35 100'S WAREHOUSE - BELGRADE DR.
- 36 HOUSE BETWEEN "1" & "2"
- 37 TILE PLANT
- 38 17 - HOSE HOUSES

NOTE: ALL GATES NOT LOCATED ADJACENT TO ONE OF THE GATE HOUSES ARE KEPT SECURELY LOCKED. MAIN GATE B-27 & B-40 CONTROLLED BY GEN. OFFICE



CONGOLEUM-HAIRN, INC.
KEARNY, N.J.

NOTE:-
FOLLOWING AS OF JUNE 17-1960 TOTAL
FLOOR AREA OF ALL C.N. INC. BLDGS. = 570,517
SQ. FT. NOT INCLUDING HOSE & HOSE CART HOUSES.
TOTAL VOLUME OF ALL C.N. INC. BLDGS. = 13,252,360 CU. FT.
TOTAL ACRES ALL C.N. INC. LAND = 33.003 ACRES.
MAIN KEARNY PLANT 17.060 ACRES. - APPROX. } 25.432 ACRES
TILE PLANT 8.442 ACRES -
OFFICE AREA 7.511 ACRES - APPROX. (FACING BELGRADE DR.)
33.003 ACRES -

REF. DRAWING 645410 - PLOT PLAN OF KEARNY PLANT

C 3-7-6	RECENT UP TO DATE - NEW PERM. LINE	645410
5 3-21-6	ADD: TOP RAMP W/VE. STAIRS IN 1958 - ADD	645410
A 3-22-6	ADD: STEAM LINE - 1958 - ADD	645410
	ADD: STEAM LINE - 1958 - ADD	645410

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THIS DRAWING IS THE PROPERTY OF CONGOLEUM-HAIRN, INC. IT IS LOANED TO YOU FOR YOUR INFORMATION ONLY. IT IS NOT TO BE REPRODUCED OR COPIED IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF CONGOLEUM-HAIRN, INC. ANY REPRODUCTION OR COPIING OF THIS DRAWING WITHOUT THE WRITTEN PERMISSION OF CONGOLEUM-HAIRN, INC. IS STRICTLY PROHIBITED.

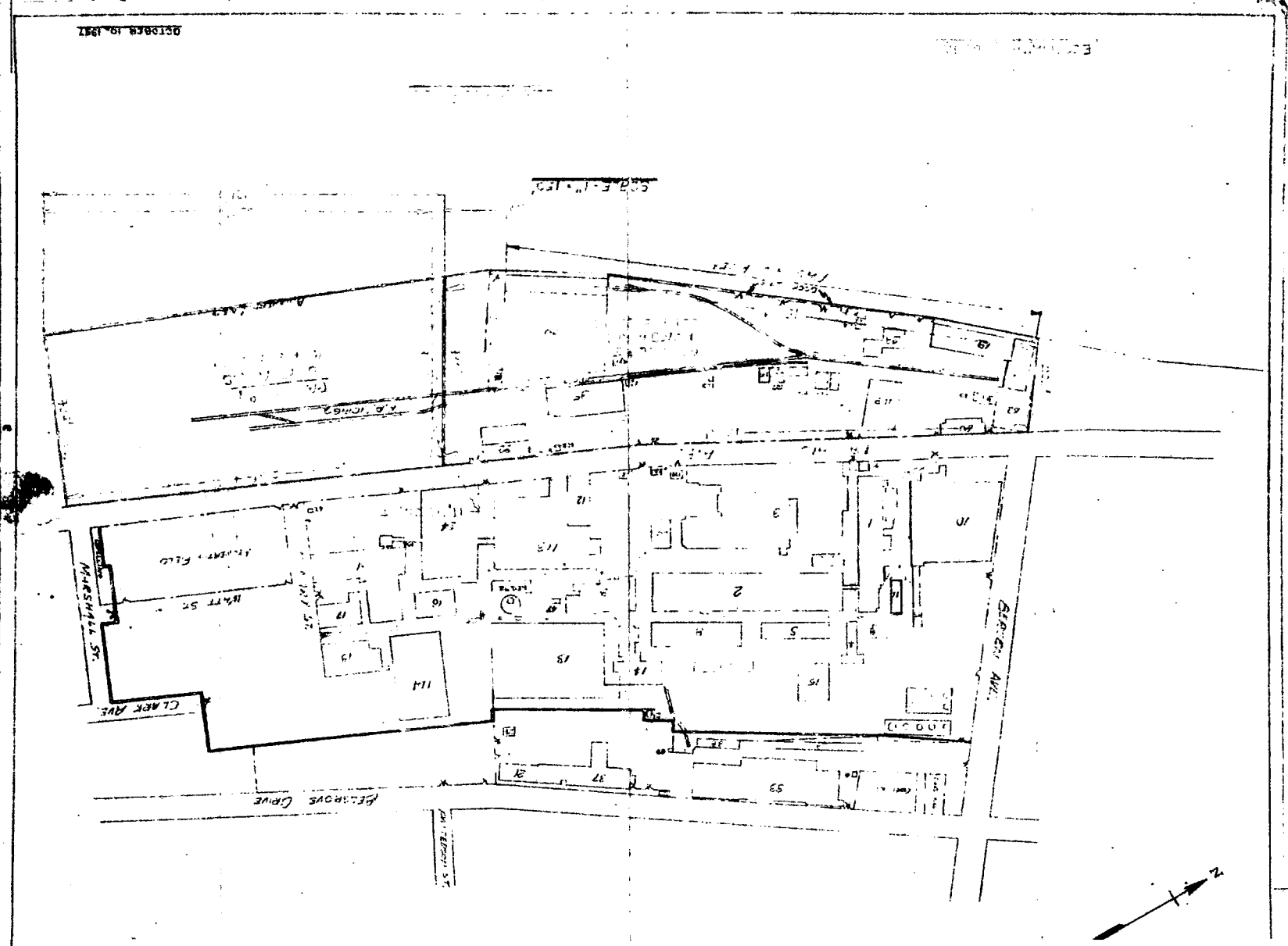
CONGOLEUM-HAIRN, INC. KEARNY, N.J.

TITLE: PLOT PLAN - SHOWING ALL BUILDINGS, GATE HOUSES AND ROADS.

DATE: 11.6.5

DRWG. NO. 645410

FILE: 645410



49.50

Assessors /

This Indenture,

Made the Eighth day of March, in the year of our Lord
 One Thousand Nine Hundred and Sixty Six
 Between CONGOLEUM-NAIRN, INC., a New York Corporation,
 having an office at 195 Belgrove Drive,
 Kearny, New Jersey,

~~Representative of the State of New Jersey~~

And

JOHN J. TULLY AND ANN J. TULLY, his wife,
 residing at 27 Francis Place,
 Caldwell, New Jersey

party of the first part

party of the second part

Witnesseth, That the said party of the first part, for and in consideration of

ONE (\$1.00) DOLLAR

lawful money of the United States of America,

to it in hand well and truly paid by the said party of
 the second part, at or before the sealing and delivery of these presents, the receipt whereof is hereby
 acknowledged, and the said party of the first part being therewith fully satisfied, contented and paid,
 has given, granted, bargained, sold, aliened, released, enfeoffed, conveyed and confirmed, and by these
 presents does give, grant, bargain, sell, alien, release, enfeoff, convey and confirm unto the said party of
 the second part, and to their heirs and assigns, forever, All that

tract or parcel of land and promises, hereinafter particular-
 ly described, situate, lying and being in the Town of Kearny
 in the County of Hudson and State of New Jersey

BEGINNING at a point in the westerly line of Belgrove Drive, along the various courses therein and distant 1,586.30 feet south of the point formed by the intersection of said line of Belgrove Drive and the southerly line of Bergen Avenue, as shown on Town of Kearny Tax Maps dated January 1, 1964; said point also being the point formed by the intersection of the northerly line of lot 172 in block 17, Town of Kearny Tax Maps dated 1922 revised 1929, and the westerly line of Belgrove Drive; thence (1) southerly along the westerly line of Belgrove Drive, South 22 degrees 39 minutes West, 225.00 feet to a point, said point also being the point formed by the intersection of the northerly line of lot 168A in block 17, Town of Kearny Tax Maps dated 1922 revised 1929, and the westerly line of Belgrove Drive; thence (2) westerly along the aforementioned northerly line of lot 168A, North 67 degrees 21 minutes West, 120.07 feet to an angle point in the westerly line of property now or formerly owned by L.J.P. Realty Corporation; thence (3) northerly along the said easterly line of property now or formerly owned by L.J.P. Realty Corporation and also along the easterly line of property now or formerly owned by Toch Industrial Park Inc., North 17 degrees 56 minutes 28 seconds East, 225.84 feet to a point on the westerly extension of the aforementioned northerly line of lot 172, block 17 and 0.81 feet west of the intersection formed by the westerly and northerly lines of said lot; thence (4) easterly along the westerly extension of and the northerly line of lot 172, South 67 degrees 21 minutes East, 138.60 feet to the westerly line of Belgrove Drive and the true point and place of BEGINNING.

LOT 12 / 1 AND 4

A 919—Deed—Hearns and Sale—(Conv. Against Grantor).
Individual or Corporation.

JULIUS BLUMBERG, INC., LAW BLANK PUBLISHERS
80 EXCHANGE PL. AT BROADWAY, N. Y. C. 10004

ASSESSORS

This Indenture,

Made the 16th day of February, in the year of our Lord
One Thousand Nine Hundred and Seventy-Six

Between CONGOLEUM CORPORATION, a corporation of the State of
Delaware with its principal place of business at First Wisconsin Center
777 East Wisconsin Avenue

in the City of Milwaukee County of Milwaukee
and State of Wisconsin / party of the first part;

And FRANKLIN PLASTICS CORPORATION, a corporation of the
State of New Jersey, having a mailing address of P. O. Box 184

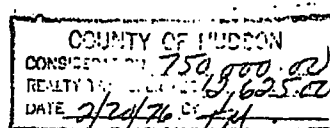
in the Borough of Bound Brook County of Somerset
and State of New Jersey / party of the second part;

Witnesseth, That the said party of the first part, for and in consideration of
SEVEN HUNDRED FIFTY THOUSAND (\$750,000.00) DOLLARS
lawful money of the United States of America, to it in hand well and truly paid by the said
party of the second part, at or before the sealing and delivery of these presents, the receipt whereof is
hereby acknowledged, and the said party of the first part being therewith fully satisfied, contented and
paid, has given, granted, bargained, sold, aliened, released, enfeoffed, conveyed and confirmed and by
these presents does give, grant, bargain, sell, alien, release, enfeoff, convey and confirm unto the said
party of the second part, and to its successors
and assigns, forever,

All that
tract or parcel of land and premises, hereinafter particularly described, situate, lying and being
in the Town of Kearny County of Hudson
and State of New Jersey, more particularly described as follows:

BEGINNING at a point in the westerly line of Passaic Avenue, said
point being the point formed by the intersection of the westerly
extension of the southerly line of Marshall Street and the westerly
line of Passaic Avenue; thence (1) northerly along the westerly
line of Passaic Avenue, North 18 degrees 09 minutes East, 818.12
feet to a point, said point being distant 6.71 feet south of an
angle point in the westerly line of Passaic Avenue; thence (2)
westerly, North 71 degrees 51 minutes West, 463.03 feet to the
easterly U. S. Pierhead and Bulkhead line of the Passaic River,
as modified June 20, 1931; thence (3) southerly along the afore-
mentioned easterly U. S. Pierhead and Bulkhead line of the Passaic
River, South 16 degrees 17 minutes West, 818.55 feet; thence (4)
easterly South 71 degrees 51 minutes East, 436.36 feet to the
westerly line of Passaic Avenue and the true point and place of
BEGINNING.

TOGETHER with all the right, title and interest, if any, of
Grantor in and to the land now or formerly lying under the tide
waters of the Passaic River, in front of and adjoining said
premises.



LIBER 3200 PG 405



PARS
Environmental
Inc.

FORMER TRANSFORMER SUBSTATION - SELF-IMPLEMENTING NOTIFICATION/REMEDIAL ACTION WORKPLAN

**Former Franklin Plastics Corporation
113 Passaic Avenue
Kearny, Hudson County, NJ**

**SRP PI No. G000002262
ISRA Case No. E86026**

PREPARED FOR
Franklin-Burlington Plastics, Inc.
33587 Walker Road
Avon Lake, OH 44012

PREPARED BY
PARS Environmental, Inc.
500 Horizon Drive, Suite 540
Robbinsville, NJ 08691
609-890-7277
609-890-9116 (fax)

PARS PROJECT NO. 727-08

NOVEMBER 2016



**Self-Implementing Notification/Remedial Action Workplan
Former Franklin Plastics Corporation
113 Passaic Avenue, Kearny, New Jersey
November 2016**

PARS

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- FIGURE 2 – SITE PLAN
- FIGURE 3 – FORMER TRANSFORMER SUBSTATION SOIL SAMPLE LOCATION MAP
- FIGURE 4 – FORMER TRANSFORMER SUBSTATION CONCRETE SAMPLE LOCATION MAP
- FIGURE 5 – PROPOSED SOIL EXCAVATION LOCATION MAP

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**Self-Implementing Notification/Remedial Action Workplan
Former Franklin Plastics Corporation
113 Passaic Avenue, Kearny, New Jersey
November 2016**

PARS

APPENDIX A

SELF-IMPLEMENTATION NOTIFICATION

APPENDIX B

SUBSTATION EQUIPMENT DISPOSAL DOCUMENTS

APPENDIX C

PURE SOIL GENERAL APPROVAL NOTIFICATION LETTER

APPENDIX D

EXAMPLE CHAIN OF CUSTODY

APPENDIX E

SITE SPECIFIC HEALTH AND SAFETY PLAN



**Self-Implementing Notification/Remedial Action Workplan
Former Franklin Plastics Corporation
113 Passaic Avenue, Kearny, New Jersey
November 2016**

PARS

1.0 INTRODUCTION

PARS Environmental, Inc. (PARS) was retained by Franklin-Burlington Plastics, Inc. (Franklin-Burlington Plastics) to perform remedial investigation and remedial action activities at the former Franklin Plastics Corporation (Franklin Plastics) facility location at 113 Passaic Avenue in Kearny, Hudson County, New Jersey, hereinafter the "Site." A Site Location Map and Site Plan are included as Figure 1 and Figure 2, respectively.

The Site is currently subject to the provisions of the New Jersey *Industrial Site Recovery Act (ISRA) Rules (N.J.A.C. 7:26B)* and the *Administrative Requirements for the Remediation of Contaminated Sites (ARRCS) Rules (N.J.A.C. 7:26C)*. Mr. Michael Moore of PARS was retained by Franklin-Burlington Plastics as the Licensed Site Remediation Professional (LSRP) for the Site. An *LSRP Notification of Retention Form* was submitted to the New Jersey Department of Environmental Protection (NJDEP) on September 9, 2013.

The Self-Implementing Notification/Remedial Action Workplan has been prepared for the remediation of the impacted soils at the former transformer substation located near the southern boundary at the Site. The former transformer substation is identified as area of concern (AOC) 11 as part of the ISRA investigation.

The remedial action is subject to the provisions of United States Environmental Protection Agency (USEPA), *Toxic Substances Control Act (TSCA)*, 40 CFR 761.61(a) and the NJDEP, *Technical Requirements for Site Remediation (N.J.A.C. 7:26E)*. This workplan only addresses the proposed remediation of impacted soils associated with the former transformer substation. Remediation of the remaining AOCs identified as part of the ISRA investigation, including the former plasticizer tank farm, former unloading area and fill area, will be addressed separately.

As required per 40 CFR 761.61(a)(3)(i)(E), a certification, signed by Franklin-Burlington Plastics, is included in Appendix A.



2.0 BACKGROUND

2.1 SITE SETTING

The Site is a 7.07-acre parcel located at 113 Passaic Avenue (Block 1, Lot 12) in the Town of Kearny, Hudson County, New Jersey. The Site is currently vacant. Manufacturing operations ceased in 2010, and all buildings were demolished in April 2014. Franklin-Burlington Plastics or its predecessor manufactured plastics at the Site from approximately 1976 to 2010.

The Site is located on the eastern shoreline of the Passaic River near river mile 6.3. Passaic Avenue bounds the Site to the east. Commercial properties, including a ShopRite supermarket, are located east of Passaic Avenue. A vacant commercial property (former Pathmark) is located north of the Site. The Site is bound to the south by a vacant parcel that was formerly occupied by American Modern Metals.

2.2 TOPOGRAPHY AND DRAINAGE

A topographic survey of the Site was performed by Dennis W. Sklar, Inc. on October 6, 2014. Based on the survey, elevations at the Site range from 0.0 to 10.8 feet above mean sea level.

A subsurface investigation conducted at the Site demonstrated that five to seven feet of fill material is present over tidal marsh sediments of the River. The fill material consists primarily of silt and clay with miscellaneous debris including coal, cinders, ash, sand, glass, rock, brick and ceramics. A review of historic aerial photographs indicate that non-indigenous fill material was placed on-site prior to development in 1946. Additional fill material was placed along the river bank circa 1966. The NJDEP Historic Fill Map for the Orange Quadrangle (HFM-14) shows regional historic fill along the banks of the Passaic River.

Storm water runoff from impermeable surfaces on the western portion of the Site flows to the west toward the Passaic River. There are a few low lying areas on the central portion of the Site where storm water may accumulate. The topographic survey shows a drainage feature near the northwestern corner of the Site where storm water from paved areas at the Site and from off-site run-on accumulates and drains to the Passaic River.

2.3 GEOLOGY

Based on NJ-GeoWeb, the Site lies within the Piedmont Physiographic Province, which is underlain by shale, sandstone, conglomerate and diabase of the Triassic - Jurassic Newark Group. The southwest to northwest trending Newark Basin is the dominant structural feature, which is filled with 6,000 to 20,000 foot sequences of sedimentary and igneous rocks ranging in age from 180 to 210 million years. In general, the Piedmont Province consists of gently rounded hills (of igneous origins) separated by wide valleys (of sedimentary origin).

The entire Site is underlain by approximately five to seven feet of fill material consisting of silt and clay with miscellaneous debris. Underlying the fill material are alluvium deposits comprised of reddish brown and yellowish brown sand, gravel, silt and clay with variable amounts of organic matter. According to *Hydrogeologic Character and Thickness of Glacial Sediment of New Jersey*, this layer is approximately 50 feet thick in the vicinity of the Site.

The uppermost bedrock unit underlying the Site is the Passaic Formation, which consists of reddish brown to brownish purple and grayish red shale and siltstone with sandstone. The anticipated depth to bedrock is 50 feet below ground surface (bgs). Investigation activities at the Site have been limited to historic fill and the upper portion of the alluvium deposits. Bedrock was not encountered during the remedial investigation.



2.4 HYDROGEOLOGY

Groundwater is encountered within the historic fill and alluvium deposits underlying the Site with depths ranging from 4.4 to 10.6 feet bgs between July 2014 and April 2015. The Passaic River is a tidal estuary with water levels that fluctuate with each tidal cycle. Groundwater is also tidally influenced. In general, groundwater flow is to the east/southeast after high tide and south/southeast after low tide.

The bedrock aquifer underlying the Site is the Brunswick Aquifer. In general, it is comprised of sandstone, siltstone and shale of the Passaic, Towaco, Feltville and Boonton Formations. Groundwater is stored and transmitted in fractures in the upper 200 to 300 feet and water is normally fresh, slightly alkaline, corrosive and hard. Calcium-bicarbonate type waters dominate with subordinated calcium-sulfate waters associated with high total dissolved solids. Groundwater investigation activities at the Site have been limited to the upper portion of the surficial aquifer.

2.5 SITE HISTORY

The Site was undeveloped until 1946. Prior to development, the western third of the Site was part of the Passaic River channel. Congoleum (also known as Congoleum-Nairn) operated a linoleum, tile and flooring products manufacturing complex in Kearny on both sides of Passaic Avenue. The production plant at the Site (formerly known as Building #115) was part of the Congoleum manufacturing complex from circa 1946 to 1974. No commercial/industrial operations were conducted at the Site from 1974 to 1976.

Beginning in 1976, Franklin Plastics and later Franklin-Burlington Plastics manufactured extruded plastic material until 2010. Manufacturing operations included mixing various colorants, stabilizers and plasticizers with vinyl resin in a batch mixer before extruding plastic material, which was then cut into small cubes or pellets. Plasticizer was pumped from above ground storage tanks (ASTs) to process tanks on the production line where the material was then fed to blenders.

A 55,000-square foot production plant and 840-square foot boiler house were located at the Site. The production plant included a maintenance shop in the southeastern corner and an office area in the northeastern corner. Two laboratories (research and development and quality control) were located on the eastern side of the building. The remainder of the production plant included processing and storage of raw materials and products. Manufacturing operations ceased in 2010, and all buildings were razed in April 2014.

A 1.37-acre adjoining parcel classified as Block 1, Lot 12.01 (143 Passaic Avenue) was used by Franklin Plastics. After being purchased from Congoleum in 1976, the lot was sold in 1977 by Franklin Plastics to Kearny Holding Corporation (a wholly owned subsidiary of Vornado Realty Trust). The property boundary of Lot 12.01 is shown on Figure 2.



3.0 NATURE AND EXTENT OF CONTAMINATION

3.1 TRANSFORMER SUBSTATION DECOMMISSIONING

Oil-filled equipment located within the substation included 5 transformers, 2 circuit breakers and 17 bushings. The approximate locations of the transformers are depicted in Figure 3.

The transformer substation was decommissioned in August 2013. The polychlorinated biphenyl (PCB) containing oil was transported to Veolia ES Technical Solutions located in Fort Arthur, Texas. Solids were transported to Chemical Waste Management located in Emelle, Alabama. Copies of uniform hazardous waste manifest and certificates of disposal are included in Appendix B.

3.2 SOIL INVESTIGATION

July 1987 Soil Sampling

In 1987, Recon Systems, Inc. (Recon) collected three samples (B-15, B-16 and B-17) within the transformer substation. Soil samples were analyzed for total petroleum hydrocarbons (TPH) and PCBs. TPH concentrations in B-15, B-16 and B-17 were 192, 298 and 1,080 milligrams per kilogram (mg/kg), respectively. PCBs were not detected in the samples collected by Recon. However, the reporting limits used by the laboratory were elevated and the NJDEP required additional investigation of this AOC.

January 2002 Soil Sampling

Levine Fricke-Recon (LFR) collected three soil samples (SB7, SB8 and SB9) within the transformer substation in January 2002. A duplicate quality control sample (SB7DUP) was also collected. PCBs were detected in samples SB7DUP, SB8 and SB9 at concentrations of 0.025, 0.057 and 0.16 mg/kg, respectively. These concentrations were below the NJDEP Residential Direct Contact Soil Remediation Standard (RDSCRS) of 0.2 mg/kg.

December 2013 through March 2015 Soil Sampling

Between December 2013 and March 2015, PARS installed 29 borings (TS-1 through TS-29) within the former transformer substation. Borings were installed using direct-push methods or a decontaminated stainless steel hand auger. A soil sample was collected from each location at the ground surface or at the 0.5 foot depth interval immediately beneath the gravel layer. Two duplicate quality control samples (TS-5DUP and TS-15DUP) were also collected.

All soil samples were analyzed for extractable petroleum hydrocarbons (EPH) and PCBs. Samples were submitted to TestAmerica Laboratories (TestAmerica) in Edison, New Jersey, under proper chain of custody procedures.

EPH concentrations in the samples ranged from 76 to 20,000 mg/kg. As per NJDEP guidance, a Sample-Specific Criterion (SSC) was developed using the Soil Remediation Criterion Calculator for all EPH detections above 1,700 mg/kg. EPH was detected in the samples collected from TS-4, TS-5, TS-6, TS-8, TS-9 and TS-24 at concentrations exceeding the calculated SSC.

PCBs were detected in the sample collected from TS-24 at a concentration of 2.05 mg/kg, which exceeded the RDSCRS of 0.2 mg/kg and the Non-Residential Direct Contact Soil Remediation Standard (NRDSCRS) of 1 mg/kg. Low concentrations of PCBs were detected in samples TS-8, TS-10, TS-15 and TS-15DUP at concentrations of 0.067, 0.063, 0.076 and 0.11 mg/kg, respectively. PCBs were not detected in the remaining samples above the laboratory method detection limits (MDL).



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Per NJDEP requirements, select soil samples were also analyzed for polyaromatic hydrocarbons (PAHs). PAHs were detected in the samples at concentrations exceeding the most stringent NJDEP Soil Remediation Standards. It was determined that these compounds are associated with the regional historic fill and are not related to the transformer substation.

Soil boring locations and analytical results are summarized in Figure 3. Analytical results are also summarized in Table 1. The findings of the soil investigation for the former transformer substation are detailed in the *Remedial Investigation Report* (PARS, March 2016).

3.3 CONCRETE SAMPLING

Dallas Industrial Services, Inc. was hired by Franklin-Burlington Plastics to demolish the structures located at the Site, including the concrete pads, supports and switchgear house for the former substation. Demolition work was performed in April 2014.

Prior to demolition, PARS collected in-situ concrete samples as per the NJDEP *Guidance for Characterization of Concrete and Clean Material Certification for Recycling* (January 2010). Concrete sampling was performed on November 5, 2013 and February 27, 2014. Thirty-nine concrete chip samples (C-3, C-4 and C-31 through C-65) were collected from the former transformer substation. Samples were collected using a hammer and chisel and were biased toward areas with visible staining. The samples were submitted to TestAmerica for EPH and PCB analysis. Laboratory analytical results were compared to the New Jersey Soil Remediation Standards as outlined in the guidance.

EPH was detected in two concrete chip samples (C-3 and C-55) at concentrations exceeding the calculated SSC. The EPH concentrations in C-3 and C-55 were 17,000 and 7,200 mg/kg, respectively. PCBs were detected in sample C-3 at a concentration of 0.044 mg/kg, which was well below the RDCSRS of 0.2 mg/kg. PCBs were not detected in the remaining samples at concentrations above the laboratory MDL.

Concrete sample locations and results are depicted on Figure 4. Analytical results are also summarized in Table 2. Concrete sampling performed at the Site is detailed in the *Remedial Investigation Report*.

Concrete was segregated during demolition based on the chip sample analytical results. The concrete with visible staining and EPH impacts will be managed as solid waste pursuant to the Solid Waste Regulations at N.J.A.C. 7:26 *et seq.* or will be re-used on-site with approval from the NJDEP Solid and Hazardous Waste Management Program.

3.4 DATA USABILITY

Soil samples were collected and submitted for analysis in accordance with the procedures described in the NJDEP *Technical Requirements for Site Remediation* (N.J.A.C. 7:26E) and the NJDEP *Field Sampling Procedures Manual*. Samples were placed in an iced cooler and submitted to TestAmerica (New Jersey Laboratory Certification No. 12028). All soil samples for the former substation were analyzed for EPH using NJDEP Method Revision 3 (Category 2) and PCBs using USEPA Method 8082A.



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Two duplicate soil samples were collected for the former transformer substation area (TS-5DUP and TS-15DUP). The duplicate soil samples were collected from the same discrete interval as the primary sample. Prior to dividing the sample into "sample" and "duplicate" aliquots, the samples were homogenized. The EPH concentration in the primary sample for TS-5 was significantly higher than the duplicate sample. This sample may not have been completely homogenized prior to dividing into primary and duplicate aliquots.

Analytical results qualified with a "J" qualifier indicate that the results are estimated. The concentration detected falls between MDL and the reporting limit (RL). The MDL is the lowest concentration that the instrument can detect an analyte and the RL is the lowest concentration at which an analyte can be detected in a sample and its concentration can be reported with a reasonable degree of accuracy and precision. Compounds flagged with "J" qualifiers are noted in the analytical result summary tables and the laboratory reports.

Method blanks and instrument blanks were used by the laboratory to evaluate data quality. Matrix spike and matrix spike duplicates (MS/MSDs) were also used by the laboratory to document the precision and bias for the analytical method. Instances of laboratory conformance were reviewed and summarized by TestAmerica. Summary reporting forms were included with the laboratory reports provided by TestAmerica. Laboratory analytical results for the investigation were accepted and deemed usable.

Details regarding data usability are detailed in the *Remedial Investigation Report* prepared by PARS. Laboratory reports were submitted to the NJDEP with the *Remedial Investigation Report*.



4.0 REMEDIAL ACTION/CLEANUP PLAN

The proposed remedial action will include the excavation of impacted soils within the former transformer substation. The cleanup objective is to remediate EPH impacts to below the calculated SSC and PCB impacts to below the RDCSRS of 0.2 mg/kg. As previously noted, remediation of other AOCs will be addressed as part of a separate submittal to the NJDEP.

4.1 PERMITS

No permits are required for the proposed remedial action. A soil erosion permit is not required because the land disturbance is less than 5,000 square feet, and a National Pollutant Discharge Elimination System (NPDES) permit is not required because the disturbed area will be less than one acre.

4.2 PRE-EXCAVATION SITE ACTIVITIES AND PUBLIC NOTICE

New Jersey One-Call will be contacted to locate and mark out public underground utilities.

A public notification sign will be posted at the entrance to the Site at least minimum of 14 days prior to field work in accordance with the *ARRCS Rules* and the public notification and outreach guidance. The sign will include contact information for both the responsible party and the LSRP of record, as well as the preferred identification (PI) number for the Site.

4.2.1 Waste Classification Soil Sampling/Disposal Facility Selection

Waste classification soil sampling was performed within the former transformer substation on October 5, 2016. A discrete sample was collected at the location with the highest petroleum hydrocarbon concentrations (TS-4). This sample was submitted for laboratory analysis for EPH and Target Compound List (TCL) volatile organic compounds (VOCs).

A five point composite sample was collected from within the proposed excavation areas. The composite soil sample was analyzed for PCBs, Toxicity Characteristics Leaching Procedure (TCLP) metals, reactivity (sulfide and cyanide), ignitibility, pH and paint filters. The analytical results will be provided to the selected disposal facility and a letter of acceptance will be obtained from the facility prior to mobilization to the Site.

Based on the results from the remedial investigation, it is anticipated that the excavated soil will be characterized as non-hazardous. Soil characterized as non-hazardous waste will be transported to Pure Soil Technologies, Inc. in Jackson, Ocean County, New Jersey. A copy of the facility general approval letter from the NJDEP, Division of Solid and Hazardous Waste Management is included in Appendix C. If deemed hazardous based on waste characterization results, the soil will be transported to a licensed hazardous waste facility.

4.2.2 Mobilization/Site Preparation

Equipment and materials will be transported to the Site. The equipment mobilized to the Site will include a utility truck, excavator and backhoe/front-end loader. Materials will include spill response and first aid supplies. The Site is secured by a perimeter chain link fence with locked gates; therefore, temporary security fencing will not be required as part of the remedial action.



4.3 EXCAVATION ACTIVITIES

An excavator will be used to excavate soils from three areas with the former transformer substation. The proposed excavation areas are depicted in Figure 5. It is estimated that 75 tons of impacted soil will be excavated from the three areas and the excavations will be extended approximately two feet below ground surface.

Excavated soils will be live-loaded onto triaxle dump trucks for transport to the selected disposal facility. If needed, a temporary stockpile will be created adjacent to the excavation. The stockpile will be lined and covered using plastic sheeting.

4.4 POST-EXCAVATION CONFIRMATORY SOIL SAMPLING

Soil samples will be collected from the three excavation areas in accordance with NJDEP *Technical Requirements for Site Remediation, Field Sampling Procedures Manual* and relevant guidance documents. Visual and olfactory field observations and findings from previous investigations will be used to help direct excavation activities and select post-excavation sample locations.

For each excavation, one sample location will be selected from each sidewall. A sample will be collected at the top and bottom of the sidewall at each location to demonstrate horizontal and vertical compliance with the remediation standards. Additionally, one sample will be collected from the base of each excavation.

Soil samples will be collected using a properly decontaminated stainless steel hand trowel. The samples will be homogenized in polyethylene bags prior to transferring into laboratory grade sampling containers. Samples will immediately be placed in a cooler with ice and submitted to TestAmerica. The samples will be analyzed for EPH and PCBs. Post-excavation soil samples will not be analyzed for PAHs since these contaminants are associated with regional historic fill and are not related to a discharge from the former transformer substation. A SSC will be developed using the NJDEP Soil Remediation Criterion Calculator for EPH concentrations above 1,700 mg/kg.

Post-excavation soil sample analytical results will be reviewed and EPH must be below the SSC and PCBs must be below the RDCSRS prior to backfilling of the excavations. If required, additional soil will be excavated and additional post-excavation soil samples will be collected and analyzed.

4.5 DECONTAMINATION OF EQUIPMENT

To avoid cross contamination, field equipment will be decontaminated according to the procedures outlined below.

Non-Dedicated Reusable Equipment

Heavy equipment and tools will be cleaned before arriving at and leaving the Site. All non-dedicated reusable equipment coming into direct contact with the soil will require field decontamination between each location. Based on the limited scope of the remedial action, installation of a decontamination pad and pressure washing of heavy equipment will not be required. Equipment will be positioned outside the impacted area. Excavator and loader buckets that come into contact with impacted soils will be manually cleaned using brushes.

Sampling devices, such as stainless steel hand trowels, will be cleaned using non-phosphate detergent (i.e., Alconox®) followed by a potable water and distilled water rinse.



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Disposable Sampling Equipment

Disposable sampling equipment includes nitrile gloves, paper towels and polyethylene bags. Disposable equipment will not be field-decontaminated. After its dedicated use, the equipment will be properly disposed.

4.6 FILL USE PLAN AND DEMOBILIZATION

Clean fill, as defined by the NJDEP *Fill Material Guidance for SRP Sites*, will be used to backfill the excavations. The LSRP will approve the import of the fill material. Fill material used for this remedial action will be obtained from a licensed quarry. The licensed quarry where clean fill will be obtained has not yet been selected. Documentation regarding the origin of the clean fill, including facility name, address and volume imported, will be included in the Remedial Action Report. These documents will include a letter from the facility and weight tickets for tracking the shipment for fill.

All equipment and materials will be removed from the Site after the completion of the remedial action. A final inspection will be performed and photographs will be taken to document the restoration of the excavation areas.

4.7 REMEDIAL ACTION REPORT

A Remedial Action Report will be submitted to NJDEP after the completion of the soil excavation and restoration. The report will present the findings and conclusions of the remedial action for the transformer substation. Figures, tables, waste disposal records and fill documentation and laboratory analytical results will be included with the report.

All documents associated with the remedial action will be on file at Franklin-Burlington Plastics office in Avon Lake, Ohio; the PARS office in Robbinsville, New Jersey; and the NJDEP office in Trenton, New Jersey. The documents will be made available to the USEPA upon request.

4.8 REMEDIAL ACTION SCHEDULE

The remedial action will commence 30 days after this notification and workplan is submitted to the USEPA, NJDEP and local health department. If the USEPA Regional Administrator does not respond within 30 calendar days of receiving the notice, it will be assumed that the notification and workplan are complete and acceptable.

Mobilization, excavation, load-out and post-excavation soil sampling will be completed in one business day. Post-excavation samples will be analyzed using a 24/48-hour turnaround. The three excavations will be backfilled after EPH and PCB impacts are remediated to the applicable NJDEP Soil Remediation Standards.



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5.0 QUALITY ASSURANCE PROJECT PLAN

5.1 PROJECT SCOPE AND OBJECTIVES

EPH and PCBs have been detected above applicable New Jersey Soil Remediation Standards in surface soils within the former transformer substation. The objective of the proposed remedial action is to excavate EPH impacts that exceed the SSC and PCB impacts that exceed the RDCSRs of 0.2 mg/kg.

Project tasks include:

1. Collection of a waste classification soil sample
2. Identification of underground utilities via New Jersey One Call
3. Excavation and disposal of EPH and PCB impacted soils
4. Collection of confirmatory post-excavation soil samples
5. Restoration and Demobilization
6. Preparation of a Remedial Action Report

5.2 KEY PERSONNEL AND CONTRACTORS

The following are key personnel and contractors that will be involved in the implementation of the remedial action.

Key Personnel and Contractors

Michael Moore, PG, LSRP Senior Project Manager PARS Environmental, Inc. 500 Horizon Drive, Suite 540 Robbinsville, NJ 08691 609-890-7277	Allen Campione Construction Manager PARS Environmental, Inc. 500 Horizon Drive, Suite 540 Robbinsville, NJ 08691 609-890-7277	Lizzy Odren Environmental Scientist PARS Environmental, Inc. 500 Horizon Drive, Suite 540 Robbinsville, NJ 08691 609-890-7277
Cody Postlethwait Site Health and Safety Officer PARS Environmental, Inc. 500 Horizon Drive, Suite 540 Robbinsville, NJ 08691 609-890-7277	TestAmerica Laboratory Environmental Analytical Laboratory 777 New Durham Road Edison, NJ 08817 NJ Lab Certification 12028 732-329-0200	Pure Soil Technologies, Inc. Soil Disposal Facility 655 S. Hope Chapel Road Jackson, NJ 08527 732-657-8551

5.3 ANALYTICAL METHODS/LABORATORY PROCEDURES

The proposed analytical methods and quality assurance sampling will be performed in accordance with the New Jersey *Technical Requirements of Site Remediation* and the NJDEP *Field Sampling Procedures Manual*. Matrix type, frequency of sampling, analytical methods, sample container types and sample hold times are detailed in Table 3.

All post-excavation soil samples will be analyzed for EPH using NJDEP Method Revision 3 (Category 2) and PCBs using USEPA Method 8082A.



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Laboratory analytical services for this sampling plan will be provided by TestAmerica (NJ Laboratory Certification No. 12028). Post-excavation soil samples will be submitted to TestAmerica using proper chain of custody (COC) procedures. The COC form will be provided by the laboratory and will be completed by the field personnel. A sample chain of custody form is included in Appendix D. The COC procedures are discussed in Section 5.9.

The laboratory will analyze the post-excavation soil samples using an expedited turnaround time of 24/48 hours. The laboratory report will be prepared using the New Jersey reduced deliverable format as specified in the *Technical Requirements for Site Remediation*. Electronic data deliverables (EDDs) will also be prepared by the laboratory. The laboratory report and EDDs will be submitted to the NJDEP with the Remedial Action Report.

Laboratory conformance will be reviewed and summarized by TestAmerica. Conformance summary forms will be provided as part of the laboratory report package.

5.4 FIELD LOG AND PHOTO DOCUMENTATION

All field activities will be recorded in a field logbook for the duration of the project. All entries will be made in waterproof, indelible blue or black ink. If an incorrect entry is made, the information will be crossed out with a single strike mark and initialed and dated by the field person making the correction.

All field entries will be dated. Entries will be legible and contain accurate and complete documentation of all Site activities and observations made. Information will include, but is not limited to, project name and number, daily tasks, sample identification, physical location of each sample and all pertinent sample collection information. At the conclusion of each day, the person making entries into the field log will date and sign the bottom of the log page.

In addition to the field logbook, all Site activities will be photo documented and selected photographs will be included with the Remedial Action Report.

5.5 SAMPLE LABELING

Each sample collected will be assigned a unique identification number and placed in an appropriate sample container. Each sample container will have a sample label affixed to the outside with the date, sample identification number, time of sample collection and project name. In addition, the label will contain the sample analysis required and chemical preservative used, if any. Labels will be completed with waterproof ink.

5.6 SAMPLE HANDLING

The analytical laboratory will provide pre-cleaned and prepared sample containers for this project. Samples collected in the field for laboratory analysis will be placed directly into the laboratory-supplied sample containers. Individual sample containers will be sealed by hand-tightening each container lid.

Sample containers will be placed into a cooler filled with ice in plastic bags to maintain a temperature of 4°(±2) Celsius. These coolers will be received by the laboratory within the correct holding times for the samples.

Possession of samples collected in the field will be traceable from the time of collection until they are analyzed by an analytical laboratory or disposed, utilizing the laboratory provided chain of custody. Each COC will be filled out completely and legibly.



5.7 SAMPLE PRESERVATION

For this remedial action, post-excavation soil samples will be analyzed for EPH and PCBs. The sample container will be filled, sealed and placed in a cooler on ice until delivery to the laboratory. Preservatives are not required for soil samples to be analyzed for EPH and PCBs.

5.8 SAMPLE DUPLICATE

Duplicate soil samples will be collected and analyzed for quality assurance purposes. Duplicate samples will be collected and analyzed at a rate of five percent. Soil will be homogenized prior to filling sample containers in order to generate two equally representative samples.

Homogenization will be completed by filling a plastic bag with soil. After sealing the bag, the sample will be mixed. The sample will then be divided in half and the soil will be transferred using a stainless steel hand trowel alternating between sampling container.

5.9 CHAIN OF CUSTODY PROCEDURES

The primary purpose of COC procedures is to document the possession of the samples from collection through shipping, storage, laboratory analysis, data reporting and disposal. At the time of sample collection, the COC form will be completed for all samples collected. The field sampler will be responsible for the care and custody of the samples until the samples are transferred to another party, dispatched to the laboratory or disposed.

The COC procedure will be as follows:

- The COC will be provided by the laboratory supplying the prepared sample containers and will accompany the samples in the cooler.
- The COC will be completed by the field sampler at the time of sample collection. This includes recording the sample identification number, date and time of sample collection, number of bottles per sample number, analysis requested and other pertinent information. All entries will be made in waterproof, indelible blue or black ink.
- The field sampler completing the COC will be responsible for the care and custody of the samples until the samples are transferred to another party, dispatched to the laboratory or disposed.
- If multiple COCs are required, each COC will be labeled in numerical order (ex. 1 of __ total number of COCs).
- When the COC has been completed, the field sampler will complete a QA/QC for errors before signing the bottom of the form. If an error is found, corrections will be made with a single strike mark, dated and initialed.
- The COC will be taped to the cooler lid or sealed inside a sealed polyethylene bag and placed in the cooler with the samples.
- Samples will be packaged for shipment and dispatched to the laboratory with the appropriate COC. A copy of the COC will be retained by the field sampler and the original will be sent with the sample.



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- When transferring custody of the samples, the individuals relinquishing and receiving custody of the samples will verify sample numbers and condition. The sample acquisition and transfer will be documented by signing and dating the COC form.

5.10 SITE SPECIFIC HEALTH AND SAFETY PLAN

A health and safety plan (HASP) has been developed for the proposed remedial action. The HASP was prepared in accordance with U.S. Department of Labor requirements. A copy of the HASP is included in Appendix E.

All personnel performing work at the Site have received initial U.S. Occupational Safety and Health Administration (OSHA) Hazardous Waste Operator (HAZWOPER) training (40-hour), as well as annual 8-hour refresher courses.



FIGURES

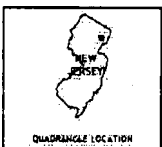
FIGURE 1 – SITE LOCATION MAP

FIGURE 2 – SITE PLAN

**FIGURE 3 – FORMER TRANSFORMER SUBSTATION SOIL SAMPLE
LOCATION MAP**

**FIGURE 4 – FORMER TRANSFORMER SUBSTATION CONCRETE SAMPLE
LOCATION MAP**

FIGURE 5 – PROPOSED SOIL EXCAVATION LOCATION MAP



Orange, NJ
USGS Quadrangle 2014
Contour Interval: 20 Feet

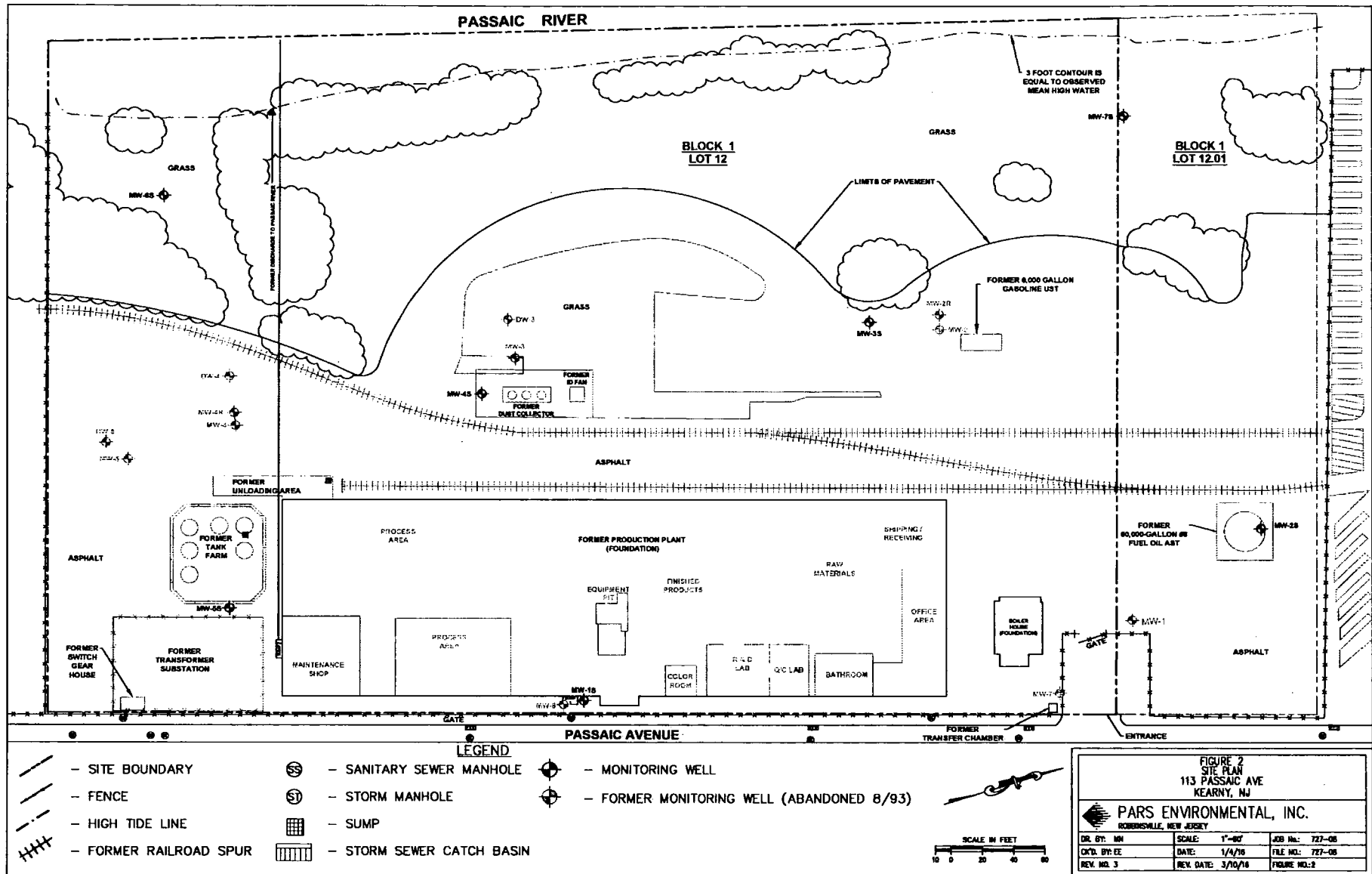


FIGURE 1
SITE LOCATION MAP
113 PASSAIC AVE
KEARNY, NJ

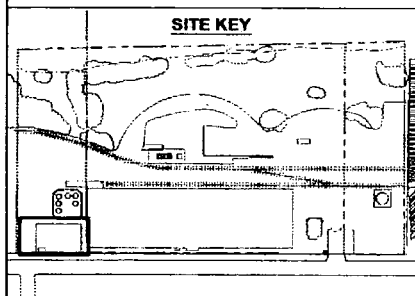


PARS ENVIRONMENTAL, INC.
ROBBINSVILLE, NEW JERSEY

DR. BY: MN	SCALE: 1"=2,000'	JOB No.: 727-08
CK'D. BY: EE	DATE: 5/8/14	FILE NO.: 727-08
REV. NO. 1	REV. DATE: 3/2/15	FIGURE NO.:1



LOC	DEPTH	CONC	PCT	LOC	DEPTH	CONC
TS-1	0.5-1.0	340	ND	TS-11	0.5-1.0	98 ND
TS-2	0.4-0.9	1,600	ND	TS-12	0.5-1.0	230 ND
TS-3	0.5-1.0	2,000	ND	TS-13	0.5-1.0	230 ND
TS-4	0.6-1.1	20,000	ND	TS-14	0.5-1.0	98 ND
TS-5	0.2-0.7	4,300	ND	TS-15	0.5-1.0	210 ND
TS-6	0.5-1.0	5,800	ND	TS-16	0.5-1.0	160 ND
TS-7	0.5-1.0	230	ND	TS-17	0.5-1.0	100 ND
TS-8	0.5-1.0	9,500	0.067 J	TS-18	0.5-1.0	76 ND
TS-9	0.5-1.0	11,000	ND	TS-19	0.5-1.0	11,000 2.05
TS-10	0.5-1.0	9,400	0.067 J	TS-20	0.5-1.0	150 ND
TS-11	0.5-1.0	9,500	ND	TS-21	0.1-0.6	620 ND
TS-12	0.5-1.0	320	ND	TS-22	0.5-1.0	1,000 ND
TS-13	0.5-1.0	6,800	ND	TS-23	0.3-0.8	180 ND
TS-14	0.5-1.0	6,300	ND	TS-24	0.2-0.7	1,300 ND
TS-15	0.5-1.0	2,500	0.11			



LEGEND

- = SITE BOUNDARY
- = FENCE
- = FORMER TRANSFORMER LOCATION

- = 1987 RECON
- = 2002 LFR
- = 2013-2015 PARS

NOTE:

- RESULTS IN MG/KG
- COMPOUNDS THAT EXCEED THE SRS ARE SHOWN UNDERLINED AND BOLD
- LOCATIONS OF FORMER TRANSFORMERS ARE APPROXIMATE BASED ON HISTORICAL DIAGRAMMS AND PHOTOGRAPHS

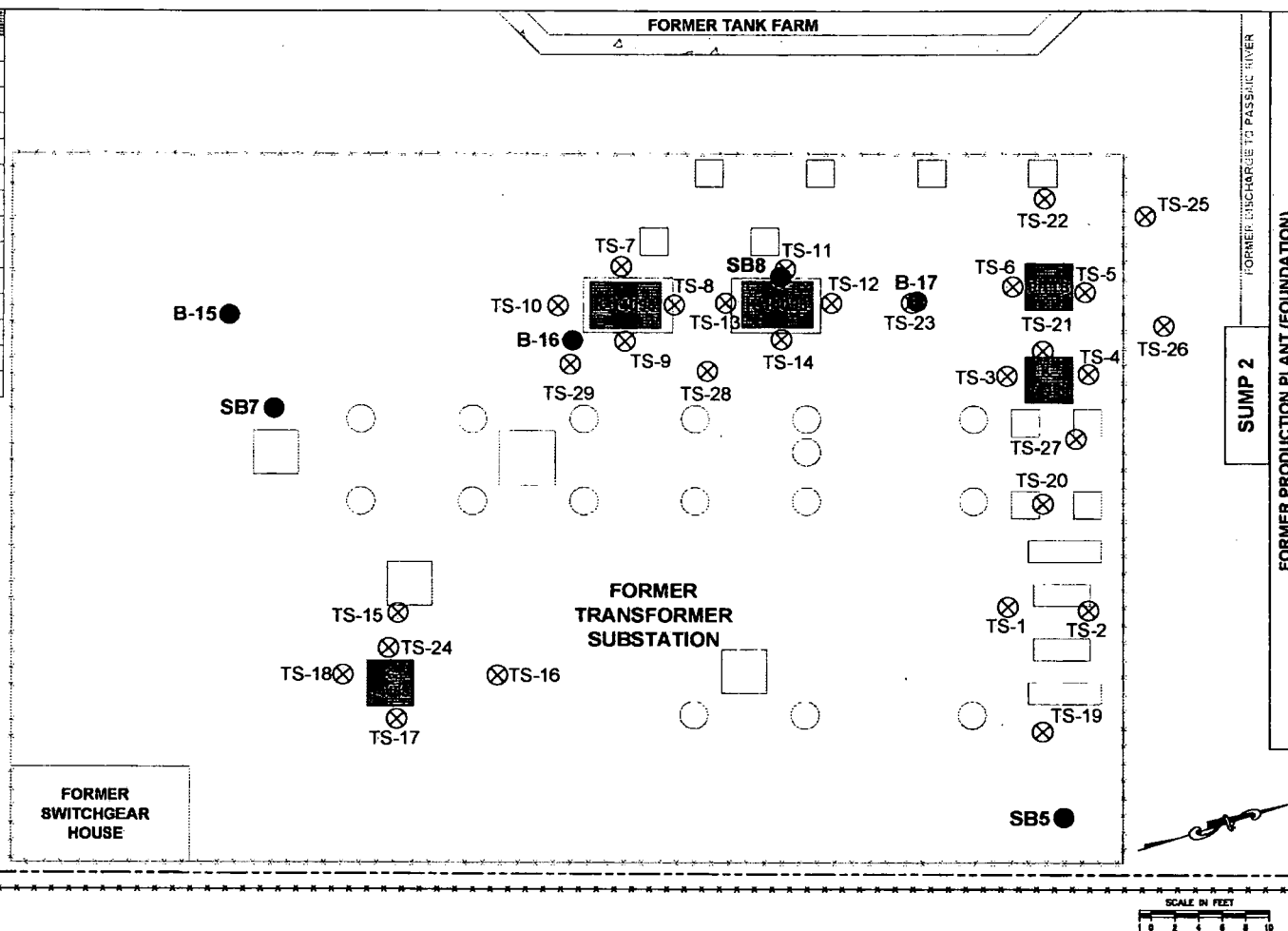
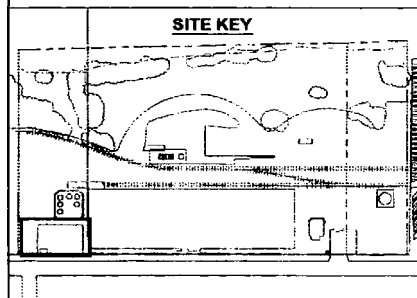


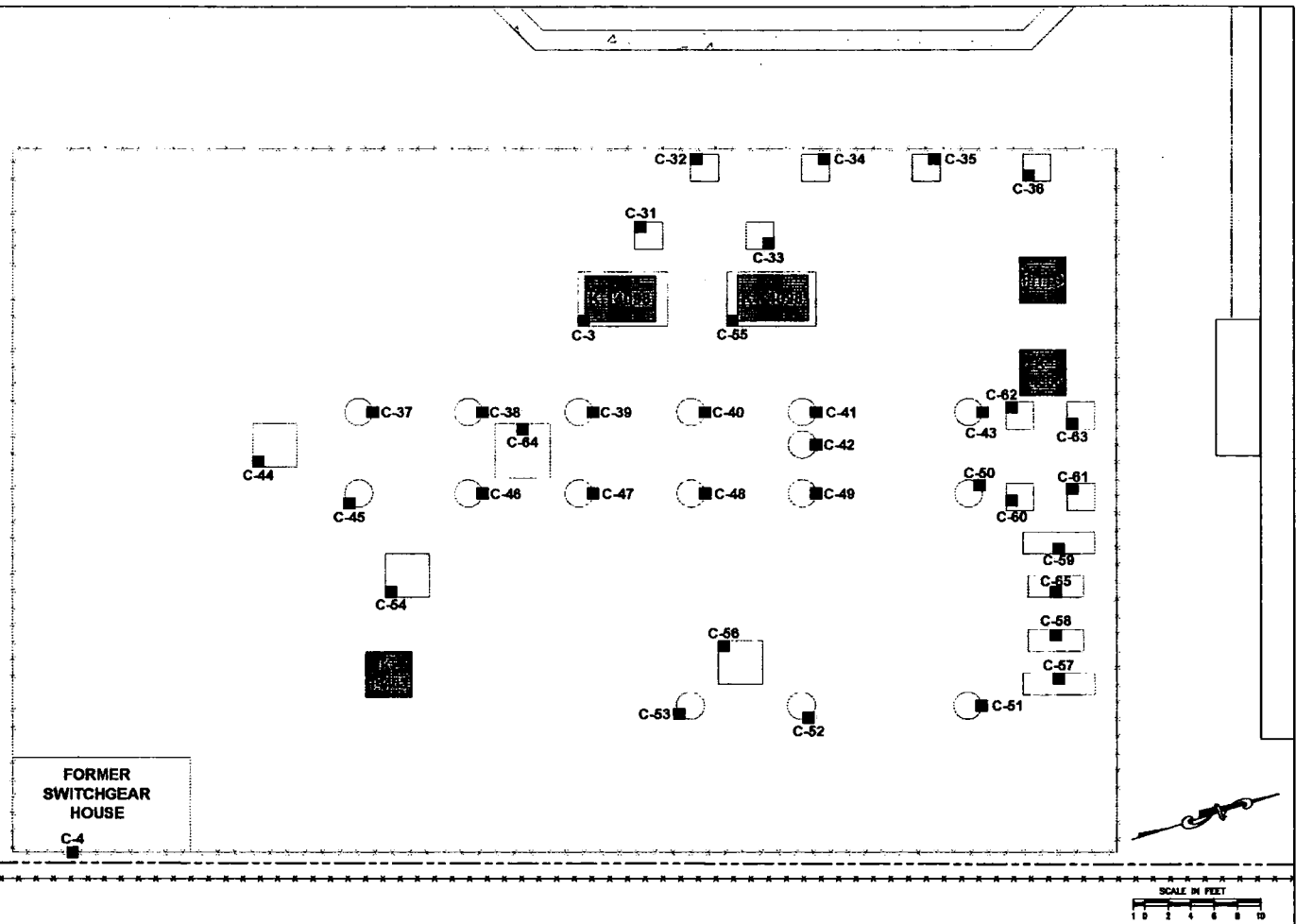
FIGURE 3 FORMER TRANSFORMER STATION - SOIL SAMPLE LOCATION MAP 113 PASSAIC AVENUE KEARNY, NJ		
PARS ENVIRONMENTAL, INC. ROBINSONVILLE, NEW JERSEY		
DRAWN BY: MM	SCALE: 1"=10'	JOB NO.: 727-08
CHECKED BY: MM	DATE: 1/9/18	FILE NO.: 727-08
REV. NO. 3	REV. DATE: 10/13/18	FIGURE NO.: 3

LOC	SPR	LOC	SPR	LOC	SPR
C-1	17,000	0.44 J	C-41	31	ND
C-2	190	ND	C-42	26	ND
C-3	560	ND	C-43	ND	ND
C-32	31	ND	C-50	ND	ND
C-33	470	ND	C-51	ND	ND
C-34	ND	ND	C-52	ND	ND
C-35	ND	ND	C-53	ND	ND
C-36	ND	ND	C-54	ND	ND
C-37	93	ND	C-55	<u>7,200</u>	ND
C-38	640	ND	C-56	35	ND
C-39	520	ND	C-57	400	ND
C-40	180	ND	C-58	910	ND
C-41	68	ND	C-59	31	ND
C-42	ND	ND	C-60	35	ND
C-43	ND	ND	C-61	ND	ND
C-44	ND	ND	C-62	29	ND
C-45	35	ND	C-63	64	ND
C-46	370	ND	C-64	410	ND



LEGEND

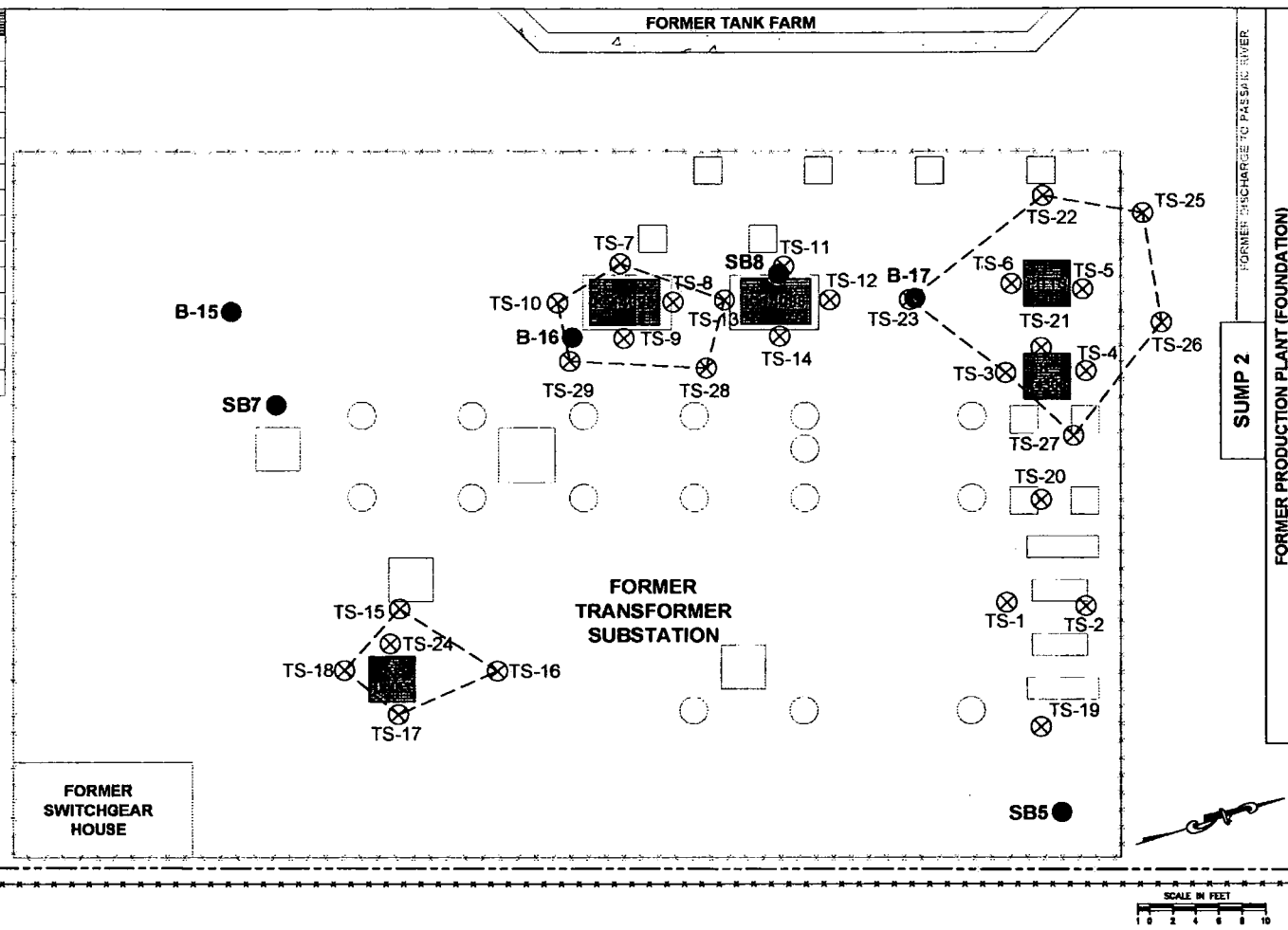
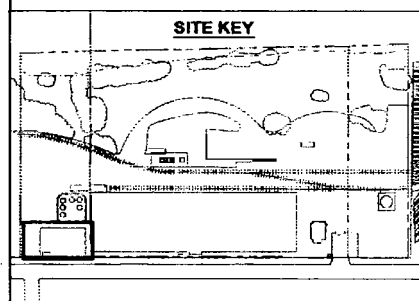
- = SITE BOUNDARY
- = FENCE
- = CONCRETE SUPPORT / STRUCTURE SAMPLE
- = FORMER TRANSFORMER LOCATION



- NOTE:
- RESULTS IN MG/KG
 - COMPOUNDS THAT EXCEED THE SRS ARE SHOWN UNDERLINED AND BOLD
 - LOCATIONS OF FORMER TRANSFORMERS ARE APPROXIMATE BASED ON HISTORICAL DIAGRAM AND PHOTOGRAPHS

FIGURE 4 FORMER TRANSFORMER STATION - CONCRETE SAMPLE LOCATION MAP 113 PASSAIC AVENUE KEARNY, NJ		
PARS ENVIRONMENTAL, INC. ROBINSONVILLE, NEW JERSEY		
DR. BY: MM	SCALE: 1"=10'	JOB No.: 727-08
CHKD. BY: MM	DATE: 1/4/16	FILE No.: 727-08
REV. NO. 3	REV. DATE: 10/13/16	FIGURE NO.: 4

LOC	DEPTH	BSL	PRO	LOC	DEPTH	BSL	PRO
TS-1	0.5-1.0	340	ND	TS-21	0.5-1.0	98	ND
TS-2	0.4-0.9	1,600	ND	TS-22	0.5-1.0	230	ND
TS-3	0.5-1.0	2,000	ND	TS-23	0.5-1.0	230	ND
TS-4	0.8-1.1	20,000	ND	TS-24	0.5-1.0	98	ND
TS-5	0.2-0.7	4,300	ND	TS-25	0.5-1.0	210	ND
TS-6	0.5-1.0	5,600	ND	TS-26	0.5-1.0	160	ND
TS-7	0.5-1.0	230	ND	TS-27	0.5-1.0	100	ND
TS-8	0.5-1.0	9,600	0.087 J	TS-28	0.5-1.0	78	ND
TS-9	0.5-1.0	11,000	ND	TS-29	0.5-1.0	11,000	2.05
TS-10	0.5-1.0	9,400	0.087 J	TS-30	0.5-1.0	150	ND
TS-11	0.5-1.0	9,500	ND	TS-31	0.1-0.6	620	ND
TS-12	0.5-1.0	320	ND	TS-32	0.5-1.0	1,000	ND
TS-13	0.5-1.0	6,800	ND	TS-33	0.3-0.8	180	ND
TS-14	0.5-1.0	6,300	ND	TS-34	0.2-0.7	1,300	ND
TS-15	0.5-1.0	2,500	0.11				



LEGEND

- = SITE BOUNDARY
- = FENCE
- - - = PROPOSED EXCAVATION BOUNDARY
- = FORMER TRANSFORMER LOCATION
- = 1987 RECON
- = 2002 LFR
- ⊗ = 2013-2015 PARS

NOTE:

- RESULTS IN MG/KG
- COMPOUNDS THAT EXCEEDED THE SRS ARE SHOWN UNDERLINED AND BOLD
- LOCATIONS OF FORMER TRANSFORMERS ARE APPROXIMATE BASED ON HISTORICAL DIAGRAMMS AND PHOTOGRAPHS

FIGURE 5 FORMER TRANSFORMER STATION - PROPOSED EXCAVATION BOUNDARIES 113 PASSAIC AVENUE KEARNY, NJ		
PARS ENVIRONMENTAL, INC. ROBINSONVILLE, NEW JERSEY		
DR. BY: MM CVD. BY: MM REV. NO. 3	SCALE: 1"=10' DATE: 1/4/16 REV. DATE: 10/13/16	JOB NO.: 727-08 FILE NO.: 727-08 FIGURE NO.: 5



**Self-Implementing Notification/Remedial Action Workplan
Former Franklin Plastics Corporation
113 Passaic Avenue, Kearny, New Jersey
November 2016**

PARS

TABLE

TABLE 1 – SOIL ANALYTICAL RESULTS TABLE

TABLE 2 – CONCRETE ANALYTICAL RESULTS TABLE

TABLE 3 – ANALYTICAL METHODS/QUALITY ASSURANCE TABLE

Table 1
Former Transformer Substation - Soil Analytical Results
Franklin Plastics
113 Passaic Avenue, Kearny, New Jersey

Sample Location					TS-1	TS-2	TS-3	TS-4	TS-5	TS-5DUP	TS-6
PARS Sample ID					009-POK131218	010-POK131218	011-POK131218	012-POK131218	013-POK131218	014-POK131218	015-POK131218
Laboratory Sample ID					460-68643-9	460-68643-10	460-68643-11	460-68643-12	460-68643-13	460-68643-14	460-68643-15
Sample Date					12/18/2013	12/18/2013	12/18/2013	12/18/2013	12/18/2013	12/18/2013	12/18/2013
Sample Depth (ft)	IGWS	RDCSRS	NRDCSRS		0.5-1.0	0.4-0.9	0.5-1.0	0.6-1.1	0.2-0.7	0.2-0.7	0.5-1.0
EPH (mg/kg)											
<u>NJ-EPH Method - Category 2</u>	NS	SSC	SSC		340	1,600	2,000	<u>20,000</u>	<u>4,300</u>	490	<u>6,600</u>
PCBs (mg/kg)											
<u>EPA Method 8082A</u>	0.2	0.2	1		ND	ND	ND	ND	ND	ND	ND

Sample Location					TS-7	TS-8	TS-9	TS-10	TS-11	TS-12	TS-13
PARS Sample ID					TS-7	TS-8	TS-9	TS-10	TS-11	TS-12	TS-13
Laboratory Sample ID					460-72634-13	460-72634-14	460-72634-15	460-72634-16	460-72634-17	460-72634-18	460-72634-19
Sample Date					3/14/2014	3/14/2014	3/14/2014	3/14/2014	3/14/2014	3/14/2014	3/14/2014
Sample Depth (ft)	IGWS	RDCSRS	NRDCSRS		0.5-1.0	0.5-1.0	0.5-1.0	0.5-1.0	0.5-1.0	0.5-1.0	0.5-1.0
EPH (mg/kg)											
<u>NJ-EPH Method - Category 2</u>	NS	SSC	SSC		230	<u>9,500</u>	<u>11,000</u>	9,400	9,500	320	6,800
PCBs (mg/kg)											
<u>EPA Method 8082A</u>	0.2	0.2	1		ND	0.067 J	ND	0.063 J	ND	ND	ND

Sample Location					TS-14	TS-15	TS-15DUP	TS-16	TS-17	TS-18	TS-19
PARS Sample ID					TS-14	TS-15	TS-15	TS-16	TS-17	TS-18	TS-19
Laboratory Sample ID					460-72634-20	460-72634-21	460-72634-31	460-72634-22	460-72634-23	460-72634-24	460-72634-25
Sample Date					3/14/2014	3/14/2014	3/14/2014	3/14/2014	3/14/2014	3/14/2014	3/14/2014
Sample Depth (ft)	IGWS	RDCSRS	NRDCSRS		0.5-1.0	0.5-1.0	0.5-1.0	0.5-1.0	0.5-1.0	0.5-1.0	0.5-1.0
EPH (mg/kg)											
<u>NJ-EPH Method - Category 2</u>	NS	SSC	SSC		6,300	2,200	2,500	96	230	230	96
PCBs (mg/kg)											
<u>EPA Method 8082A</u>	0.2	0.2	1		ND	0.076 J	0.11	ND	ND	ND	ND

Table 1
Former Transformer Substation - Soil Analytical Results
Franklin Plastics
113 Passaic Avenue, Kearny, New Jersey

Sample Location				TS-20	TS-21	TS-22	TS-23	TS-24	TS-25	TS-26
PARS Sample ID				TS-20	TS-21	TS-22	TS-23	TS-24	018-POK150312	020-POK150312
Laboratory Sample ID				460-72634-26	460-72634-27	460-72634-28	460-72634-29	460-72634-30	460-91664-18	460-91664-20
Sample Date				3/14/2014	3/14/2014	3/14/2014	3/14/2014	3/14/2014	3/12/2015	3/12/2015
Sample Depth (ft)	IGWS	RDCSRS	NRDCSRS	0.5-1.0	0.5-1.0	0.5-1.0	0.5-1.0	0.0-0.5	0.5-1.0	0.1-0.6
<u>EPH (mg/kg)</u>										
<u>NJ-EPH Method - Category 2</u>	NS	SSC	SSC	210	160	100	76	<u>11,000</u>	150	620
<u>PCBs (mg/kg)</u>										
<u>EPA Method 8082A</u>	0.2	0.2	1	ND	ND	ND	ND	<u>2.05</u>	ND	ND

Sample Location				TS-27	TS-28	TS-29
PARS Sample ID				021-POK150312	022-POK150312	023-POK150312
Laboratory Sample ID				460-91664-21	460-91664-22	460-91664-23
Sample Date				3/12/2015	3/12/2015	3/12/2015
Sample Depth (ft)	IGWS	RDCSRS	NRDCSRS	0.0-0.5	0.3-0.8	0.2-0.7
<u>EPH (mg/kg)</u>						
<u>NJ-EPH Method - Category 2</u>	NS	SSC	SSC	1,000	180	1,300
<u>PCBs (mg/kg)</u>						
<u>EPA Method 8082A</u>	0.2	0.2	1	ND	ND	ND

Table 1
Former Transformer Substation - Soil Analytical Results
Franklin-Burlington Plastics
113 Passaic Avenue, Kearny, New Jersey

Notes:

Only detected compounds are shown.

Detected compounds that exceed the applicable Soil Remediation Standard are shown underlined and bold **[thus]**

Notes:

mg/kg Milligrams per kilogram

ND Compound not detected above laboratory reporting limit

NA Compound not analyzed

NS No Standard

J Estimated concentration (result is less than reporting limit, but greater than the minimum detection limit)

SSC Sample Specific Criterion (sample specific criterion developed for each sample with a total EPH concentration above 1,700 mg/kg using the NJDEP EPH Soil Remediation Criterion Calculator)

IGWS Default Impact to Groundwater Soil Remediation Standard

RDCSRS Residential Direct Contact Soil Remediation Standard

NRDCSRS Non-Residential Direct Contact Soil Remediation Standard

Sampling Information:

Samples were collected in 8 oz glass containers.

Samples were placed in iced coolers at approximately 4°C.

Table 2
Former Transformer Substation - Concrete Analytical Results
Franklin Plastics
113 Passaic Avenue, Kearny, NJ

Description				Pad/Support	Switch House Wall	Pad/Support	Pad/Support	Pad/Support	Pad/Support	Pad/Support
PARS Sample ID				C-3	C-4	C-31	C-32	C-33	C-34	C-34 (Dup)
Laboratory Sample ID				460-66253-3	460-66253-4	460-71806-16	460-71806-17	460-71806-18	460-71806-19	460-71806-20
Sample Date	IGWS	RDCSRS	NRDCSRS	11/5/2013	11/5/2013	2/27/2014	2/27/2014	2/27/2014	2/27/2014	2/27/2014
<u>EPH (mg/kg)</u>										
<u>NJ-EPH Method - Category 2</u>	NS	SSC	SSC	<u>17,000</u>	190	560	31	470	ND	ND
<u>PCBs (mg/kg)</u>										
<u>EPA Method 8082</u>	0.2	0.2	1	0.044 J	ND	ND	ND	ND	ND	ND
Description				Pad/Support	Pad/Support	Pad/Support	Pad/Support	Pad/Support	Pad/Support	Pad/Support
PARS Sample ID				C-35	C-36	C-37	C-38	C-39	C-39 (Dup)	C-40
Laboratory Sample ID				460-71806-21	460-71806-22	460-71806-23	460-71806-24	460-71806-25	460-71806-26	460-71806-27
Sample Date	IGWS	RDCSRS	NRDCSRS	2/27/2014	2/27/2014	2/27/2014	2/27/2014	2/27/2014	2/27/2014	2/27/2014
<u>EPH (mg/kg)</u>										
<u>NJ-EPH Method - Category 2</u>	NS	SSC	SSC	ND	ND	93	640	520	490	180
<u>PCBs (mg/kg)</u>										
<u>EPA Method 8082</u>	0.2	0.2	1	ND	ND	ND	ND	ND	ND	ND
Description				Pad/Support	Pad/Support	Pad/Support	Pad/Support	Pad/Support	Pad/Support	Pad/Support
PARS Sample ID				C-41	C-42	C-43	C-44	C-45	C-46	C-47
Laboratory Sample ID				460-71806-28	460-71806-29	460-71806-30	460-71806-31	460-71806-32	460-71806-33	460-71806-34
Sample Date	IGWS	RDCSRS	NRDCSRS	2/27/2014	2/27/2014	2/27/2014	2/27/2014	2/27/2014	2/27/2014	2/27/2014
<u>EPH (mg/kg)</u>										
<u>NJ-EPH Method - Category 2</u>	NS	SSC	SSC	68	ND	ND	ND	35	370	31
<u>PCBs (mg/kg)</u>										
<u>EPA Method 8082</u>	0.2	0.2	1	ND	ND	ND	ND	ND	ND	ND

Table 2
Former Transformer Substation - Concrete Analytical Results
Franklin Plastics
113 Passaic Avenue, Kearny, NJ

Description				Pad/Support	Pad/Support	Pad/Support	Pad/Support	Pad/Support	Pad/Support
PARS Sample ID				C-48	C-49	C-50	C-51	C-52	C-53
Laboratory Sample ID				460-71806-35	460-71806-36	460-71806-37	460-71806-38	460-71806-39	460-71806-40
Sample Date	IGWS	RDCSRS	NRDCSRS	2/27/2014	2/27/2014	2/27/2014	2/27/2014	2/27/2014	2/27/2014
<u>EPH (mg/kg)</u>									
<u>NJ-EPH Method - Category 2</u>	NS	SSC	SSC	26	ND	ND	ND	ND	ND
<u>PCBs (mg/kg)</u>									
<u>EPA Method 8082</u>	0.2	0.2	1	ND	ND	ND	ND	ND	ND
Description				Pad/Support	Pad/Support	Pad/Support	Pad/Support	Pad/Support	Pad/Support
PARS Sample ID				C-54	C-55	C-56	C-57	C-58	C-59
Laboratory Sample ID				460-71806-41	460-71806-42	460-71806-43	460-71806-44	460-71806-45	460-71806-46
Sample Date	IGWS	RDCSRS	NRDCSRS	2/27/2014	2/27/2014	2/27/2014	2/27/2014	2/27/2014	2/27/2014
<u>EPH (mg/kg)</u>									
<u>NJ-EPH Method - Category 2</u>	NS	SSC	SSC	ND	<u>7,200</u>	35	400	910	ND
<u>PCBs (mg/kg)</u>									
<u>EPA Method 8082</u>	0.2	0.2	1	ND	ND	ND	ND	ND	ND
Description				Pad/Support	Pad/Support	Pad/Support	Pad/Support	Pad/Support	Pad/Support
PARS Sample ID				C-60	C-61	C-62	C-63	C-64	C-65
Laboratory Sample ID				460-71806-47	460-71806-48	460-71806-49	460-71806-50	460-71806-51	460-71806-52
Sample Date	IGWS	RDCSRS	NRDCSRS	2/27/2014	2/27/2014	2/27/2014	2/27/2014	2/27/2014	2/27/2014
<u>EPH (mg/kg)</u>									
<u>NJ-EPH Method - Category 2</u>	NS	SSC	SSC	31	35	ND	29	64	410
<u>PCBs (mg/kg)</u>									
<u>EPA Method 8082</u>	0.2	0.2	1	ND	ND	ND	ND	ND	ND

Table 2
Former Transformer Substation - Concrete Analytical Results
Franklin Plastics
113 Passaic Avenue, Kearny, NJ

Notes:

Detected compounds that exceed the most stringent Soil Remediation Standard are shown underlined and bold **thus**

mg/kg Milligrams per kilogram

ND Compound not detected above laboratory reporting limit

NS No Standard

J Estimated concentration (result is less than reporting limit, but greater than the minimum detection limit)

SSC Sample Specific Criterion (sample specific criterion developed for each sample with a total EPH concentration above 1,700 mg/kg using the NJDEP EPH Soil Remediation Criterion Calculator)

IGWS Default Impact to Groundwater Soil Remediation Standard

RDCSRS Residential Direct Contact Soil Remediation Standard

NRDCSRS Non-Residential Direct Contact Soil Remediation Standard

Sampling Information:

Samples were collected in 8 oz glass containers.

Samples were placed in iced coolers at approximately 4°C.

Table 3
Former Transformer Substation - Analytical Methods/Quality Assurance Summary Table
Franklin Plastics
113 Passaic Avenue, Kearny, NJ

Sample Location	Matrix	Sample Depth	Sample Method	Analytical Parameter	Container Type	Sample Preservation	Container Size	Sample Frequency	Sample Hold Time
Former Transformer Substation	Soil	Sidewalls and Base of Excavation	Grab	EPH (NJDEP, Revision 3)	Glass Jar	4°C	4 ounce	1 top and bottom sample for each sidewall and 1 base sample for each excavation	14 Days
Former Transformer Substation	Soil	Sidewalls and Base of Excavation	Grab	PCBs (USEPA Method 8082A)	Glass Jar	4°C	4 ounce	1 top and bottom sample for each sidewall and 1 base sample for each excavation	14 Days

Notes:

Field duplicate samples will be collected at a rate of 5%



**Self-Implementing Notification/Remedial Action Workplan
Former Franklin Plastics Corporation
113 Passaic Avenue, Kearny, New Jersey
November 2016**

PARS

APPENDIX A
SELF-IMPLEMENTATION CERTIFICATION

SELF-IMPLEMENTATION CERTIFICATION


Per 40 CFR 761.61(a)(3)(i)(E), I certify that all sampling plans, sample collection procedures, sample preparation procedures, extraction procedures, and instrumental/chemical analysis procedures used to assess or characterize the PCB contamination at the cleanup site, are on file at the address listed below, and are available for USEPA inspection.

Cleanup Site: Former Transformer Substation
Franklin Plastics
113 Passaic Avenue
Kearny, Hudson County, New Jersey

Site Owner/Cleanup Party: Franklin Burlington Plastics, Inc.
33587 Walker Road
Avon Lake, Ohio 44012

Contact: Mr. Ernie Schaub, President
Telephone: 1-440-930-3611
Email: es@franklinburlingtonplastics.com

Signature:



Ernie Schaub
President
Franklin Burlington Plastics

09 November 2016

Date



Self-Implementing Notification/Remedial Action Workplan
Former Franklin Plastics Corporation
113 Passaic Avenue, Kearny, New Jersey
November 2016

PARS

APPENDIX B

SUBSTATION EQUIPMENT DISPOSAL DOCUMENTS

TCI of Alabama, LLC Disposal Document Package



POLYONE CORPORATION

33587 WALKER ROAD
AVON LAKE, OH 44102
ERNIE SCHAUB

Manifest Tracking Information

TCI Manifest #: 133043
Manifest Tracking #: 001898197GBF
Date Picked Up: 8/7/2013
Date Received: 8/15/2013

Enclosed please find the following disposal documents (if applicable) for the manifest listed above:

- ☐ ***TCI Disposal Summary Issued:*** 10/28/2013
- ☐ ***TCI Certificate of Disposal Issued:*** 10/28/2013
- ☐ ***List of TCI Outbound Manifest(s) and associated CD***

138400

Please review the attached information closely. If any of the information is missing please fax or email this page back to Kristin Piper with the missing item(s) circled.

Fax #: (205) 338-9979 or kpiper@tcialabama.com

**TCI of Alabama, LLC**

101 Parkway East
Pell City, AL 35125
Phone: (205) 338-9997
Fax: (205) 338-9979
EPA ID #: ALD983167891

Certificate Number: 133043
Date Issued: 10/28/2013
Manifest Id Number: 001898197GBF
Total Items: 17
Pickup Date: 8/7/2013

Generator: POLYONE CORPORATION

33587 WALKER ROAD
AVON LAKE, OH 44102

Disposal Summary

In accordance with our agreement to provide disposal services, we hereby certify the completion of all items picked up on the above listed manifest. A summary of the disposition is as follows:

TCI Barcode	Serial #	Gen Ref #	Size / KVA	Description	PCB (ppm)	Item(s)			Liquid(s)		
						Disposed	Method	Outbound	Disposed	Method	Outbound
AA535890	1584528	T0305	0	BUSHING	387	10/25/2013	MCR		8/25/2013	INC	138400
AA535891	1583829	T0312	0	BUSHING	438	10/25/2013	MCR		8/25/2013	INC	138400
AA535892	1584291	T0315	0	BUSHING	448	10/25/2013	MCR		8/25/2013	INC	138400
AA535893	1583947	T9130	0	BUSHING	407	10/25/2013	MCR		8/25/2013	INC	138400
AA535894	4383944	T9131	0	BUSHING	448	10/25/2013	MCR		8/25/2013	INC	138400
AA535895	1583949	T9133	0	BUSHING	417	10/25/2013	MCR		8/25/2013	INC	138400
AA535896	1583945	T9134	0	BUSHING	408	10/25/2013	MCR		8/25/2013	INC	138400
Quantity: 7											
AA535880	1586384	T0306	0	BUSHING	674	10/25/2013	MCR		8/25/2013	INC	138400
AA535881	1586385	T0307	0	BUSHING	611	10/25/2013	MCR		8/25/2013	INC	138400
AA535882	1586391	T0308	0	BUSHING	623	10/25/2013	MCR		8/25/2013	INC	138400
AA535883	1586388	T0309	0	BUSHING	751	10/25/2013	MCR		8/25/2013	INC	138400
AA535884	1586382	T0310	0	BUSHING	591	10/25/2013	MCR		8/25/2013	INC	138400

Disposal Method Key:

CWL: PCB Chemical Waste Landfill - Waste Management, Emelle, AL
DRN: Complete Draining - TCI of Alabama, LLC, Pell City, AL
IHB: TCI Thermal Destruction - TCI of Alabama, LLC, Pell City, AL
INC: PCB Incineration - Veolia, Pt. Arthur, TX
MCR: Metals Cleaning and Recycling - TCI of Alabama, LLC, Pell City, AL
RCY: Recycling - TCI of Alabama, LLC, Pell City, AL
THM: Thermal Destruction - See Attached Outbound
DTX: Dechlorination - See Attached Outbound
IHX: Dechlorination - TCI of Alabama, LLC Pell City, AL

Quality Director

10/28/2013

Date

**TCI of Alabama, LLC**

101 Parkway East

Pell City, AL 35125

Phone: (205) 338-9997

Fax: (205) 338-9979

EPA ID #: ALD983167891

Certificate Number: 133043

Date Issued: 10/28/2013

Manifest Id Number: 001898197GBF

Total Items: 17

Pickup Date: 8/7/2013

Generator: POLYONE CORPORATION

33587 WALKER ROAD

AVON LAKE, OH 44102

Disposal Summary

In accordance with our agreement to provide disposal services, we hereby certify the completion of all items picked up on the above listed manifest. A summary of the disposition is as follows:

<u>TCI Barcode</u>	<u>Serial #</u>	<u>Gen Ref #</u>	<u>Size / KVA</u>	<u>Description</u>	<u>PCB (ppm)</u>	<u>Item(s)</u>			<u>Liquid(s)</u>		
						<u>Disposed</u>	<u>Method</u>	<u>Outbound</u>	<u>Disposed</u>	<u>Method</u>	<u>Outbound</u>
AA535885	1586052	T0311	0	BUSHING	540	10/25/2013	MCR		8/25/2013	INC	138400
AA535886	1586121	T0313	0	BUSHING	550	10/25/2013	MCR		8/25/2013	INC	138400
AA535887	1586120	T0314	0	BUSHING	561	10/25/2013	MCR		8/25/2013	INC	138400
AA535888	1584198	T9132	0	BUSHING	510	10/25/2013	MCR		8/25/2013	INC	138400
AA535889	1585010	T9135	0	BUSHING	550	10/25/2013	MCR		8/25/2013	INC	138400

Quantity: 10

Disposal Method Key:

CWL: PCB Chemical Waste Landfill - Waste Management, Emelle, AL

DRN: Complete Draining - TCI of Alabama, LLC, Pell City, AL

IHB: TCI Thermal Destruction - TCI of Alabama, LLC, Pell City, AL

INC: PCB Incineration - Veolia, Ft. Arthur, TX

MCR: Metals Cleaning and Recycling - TCI of Alabama, LLC, Pell City, AL

RCY: Recycling - TCI of Alabama, LLC, Pell City, AL

THM: Thermal Destruction - See Attached Outbound

DTX: Dechlorination - See Attached Outbound

IHX: Dechlorination - TCI of Alabama, LLC Pell City, AL

Quality Director

10/28/2013

Date

**TCI of Alabama, LLC**

101 Parkway East
Pell City, AL 35125
Phone: (205) 338-8997
Fax: (205) 338-8979
EPA ID #: ALD983167891

Certificate of Disposal**Certificate Number:** 133043**Generator:** POLYONE CORPORATION**Date Issued:** 10/28/2013**Manifest Id Number:** 001898197GBF

33587 WALKER ROAD

Pickup Date: 8/7/2013

AVON LAKE, OH 44102

We hereby certify that the following PCB items were disposed of by TCI of Alabama, LLC metals cleaning and recycling process as of the date(s) shown below:

Barcode	Description	Serial #	Date
AA535880	BUSHING	1586384	10/25/2013
AA535881	BUSHING	1586385	10/25/2013
AA535882	BUSHING	1586391	10/25/2013
AA535883	BUSHING	1586388	10/25/2013
AA535884	BUSHING	1586382	10/25/2013
AA535885	BUSHING	1586052	10/25/2013
AA535886	BUSHING	1586121	10/25/2013
AA535887	BUSHING	1586120	10/25/2013
AA535888	BUSHING	1584198	10/25/2013
AA535889	BUSHING	1585010	10/25/2013
AA535890	BUSHING	1584528	10/25/2013
AA535891	BUSHING	1583829	10/25/2013
AA535892	BUSHING	1584291	10/25/2013
AA535893	BUSHING	1583947	10/25/2013
AA535894	BUSHING	4383944	10/25/2013
AA535895	BUSHING	1583949	10/25/2013
AA535896	BUSHING	1583945	10/25/2013

Under civil and criminal penalties of law for the making or submission of false or fraudulent statements or representations (18 U.S.C. 1001 and 15 U.S.C. 2815), I certify that the information contained in or accompanying this document is true, accurate, and complete. As to the identified section(s) of this document for which I cannot personally verify truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate, and complete.

Tracy Helms
Quality Director

10/28/2013

Date

Please print or type. (Form designed for use on 12-pitch typewriter.)

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Form Approved OMB No. 2050-0039

UNIFORM HAZARDOUS WASTE MANIFEST		1. Generator ID Number ALD933167881	2. Page 1 of 1	3. Emergency Response Phone 850 434-9300	4. Manifest Tracking Number 011752534 JJK
5. Generator's Name and Mailing Address TCI OF ALABAMA, LLC 101 PARKWAY EAST PELL CITY, AL 35126-2748 Generator's Phone: (205) 338-8897 Ed Generator's Site Address (if different than mailing address): Mr. GREG MASSARO					
6. Transporter 1 Company Name ROBBIE D. WOOD, INC.			U.S. EPA ID Number ALD897138891		
7. Transporter 2 Company Name			U.S. EPA ID Number		
8. Designated Facility Name and Site Address VEOLIA ES TECHNICAL SOLUTIONS HIGHWAY 73 PORT ARTHUR, TX 77640 Facility's Phone: (409) 736-2821 3.5 MILES W. OF TAYLOR'S BAYOU U.S. EPA ID Number TXD0002838899					
9a. HM	9b. U.S. DOT Description (including Proper Shipping Name, Hazard Class, ID Number, and Packing Group (if any))	10. Containers No.	Type	11. Total Quantity	12. Unit Wt/Vol
1.	RQ, UN2315, POLYCHLORINATED BIPHENYLS, LIQUID, 8, PGII (W.O.S. 1857753000)	1	TT	18745	KG
2.					
3.					
4.					
13. Waste Codes 011752534 aug 23 2013 12:20					
14. Special Handling Instructions and Additional Information PCB FLUID > 499 PPM PCBs #7443 TRAILER: 8885 DRPS: 8/20/12 POUNDS: 41,240 PROFILE: BW2871 WORK ORDER: N/A GALLONS: 5533 EMERGENCY RESPONSE GUIDE: 9171 24 HR EMERGENCY CONTACT: CHEMTREC					
15. GENERATOR'S/OFFEROR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgment of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (2) (i) am a large quantity generator) or (b) (i) am a small quantity generator) is true.					
Generator's/Officer's Printed/Typed Name IRAW HEDAS Signature [Signature] Month Day Year 10/8/12					
16. International Shipments <input type="checkbox"/> Import to U.S. <input type="checkbox"/> Export from U.S. Port of entry/exit: Date leaving U.S.:					
17. Transporter Acknowledgment of Receipt of Materials Transporter 1 Printed/Typed Name Chris Frye Signature [Signature] Month Day Year 10/8/12					
Transporter 2 Printed/Typed Name Signature Month Day Year					
18. Discrepancy 18a. Discrepancy Indication Space <input type="checkbox"/> Quantity <input type="checkbox"/> Type <input type="checkbox"/> Residue <input type="checkbox"/> Partial Rejection <input type="checkbox"/> Full Rejection					
18b. Alternate Facility (or Generator) Manifest Reference Number: U.S. EPA ID Number					
Facility's Phone: 18c. Signature of Alternate Facility (or Generator) Month Day Year					
19. Hazardous Waste Report Management Method Codes (i.e., codes for hazardous waste treatment, disposal, and recycling systems)					
20. Designated Facility Owner or Operator: Certification of receipt of hazardous materials covered by the manifest except as noted in item 18a Printed/Typed Name Josette He Maclelland Signature [Signature] Month Day Year 10/8/12					



13400

Veolia ES Technical Solutions, L.L.C.
Federal EPA ID: TXD000838896
State EPA ID: 50212-001
Highway 73, 3.5 miles W. of Taylor's Bayou Bridge
Port Arthur, TX 77643
(409) 736-2621

TCI OF ALABAMA, LLC
101 PARKWAY EAST

PELL CITY, AL 35125-2749

ATTN: GREG MASSARO

RECEIVED SEP 25 2013

CERTIFICATE OF DESTRUCTION

Veolia ES Technical Solutions, L.L.C. has received waste material from TCI OF ALABAMA, LLC (Fed EPA ID - ALD983167891) on 8/23/2013 as described on (State Manifest or Uniform) Hazardous Waste Manifest number 011752534JJK. Veolia ES Technical Solutions, L.L.C., hereby certifies that the above described material was incinerated, and thereby destroyed, in accordance with the 40 CFR, part 761, as it pertains to the incineration of Poly-Chlorinated Biphenyl contaminated materials.

Sequence 1

Profile Number: PTABV2871

Veolia Tracking ID: 701284

<u>Process</u>	<u>Veolia Unit ID</u>	<u>Treatment Date</u>	<u>Generator #</u>	<u>Inter-Company #</u>
INCINERATION	1	8/25/2013	451858824000001010	451858824000001010

Under civil and criminal penalties of law for the making or submission of false or fraudulent statements or representations (18 U.S.C. 1001 and 15 U.S.C. 2615), I certify that the information contained in or accompanying this document is true, accurate, and complete. As to the identified section(s) of this document for which I cannot personally verify truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate, and complete.

Paul V. Conrad
Material Services Manager

05-Sep-13

TCI of Alabama, LLC Disposal Document Package



POLYONE CORPORATION

33587 WALKER ROAD
AVON LAKE, OH 44102
ERNIE SCHAUB

Manifest Tracking Information

TCI Manifest #:	133044
Manifest Tracking #:	001898198GBF
Date Picked Up:	8/7/2013
Date Received:	8/15/2013

Enclosed please find the following disposal documents (if applicable) for the manifest listed above:

- | | |
|--|------------|
| <input type="checkbox"/> <i>TCI Disposal Summary Issued:</i> | 10/28/2013 |
| <input type="checkbox"/> <i>TCI Certificate of Disposal Issued:</i> | 10/28/2013 |
| <input type="checkbox"/> <i>List of TCI Outbound Manifest(s) and associated CD</i> | |

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138404

Please review the attached information closely. If any of the information is missing please fax or email this page back to Kristin Piper with the missing item(s) circled.

Fax #: (205) 338-9979 or kpiper@tcialabama.com

**TCI of Alabama, LLC**

101 Parkway East
Pell City, AL 35125
Phone: (205) 338-9997
Fax: (205) 338-9979
EPA ID #: ALD983167891

Certificate Number: 133044
Date Issued: 10/28/2013
Manifest Id Number: 001898198GBF
Total Items: 16
Pickup Date: 8/7/2013

Generator: POLYONE CORPORATION

33587 WALKER ROAD
AVON LAKE, OH 44102

Disposal Summary

In accordance with our agreement to provide disposal services, we hereby certify the completion of all items picked up on the above listed manifest. A summary of the disposition is as follows:

TCI Barcode	Serial #	Gen Ref #	Size / KVA	Description	PCB (ppm)	Item(s)			Liquid(s)		
						Disposed	Method	Outbound	Disposed	Method	Outbound
AA535902	CT-1	5	0	CURRENT TRANSFORMER	711	10/25/2013	MCR		8/25/2013	INC	138400
AA535903	CT-2	6	0	CURRENT TRANSFORMER	740	10/25/2013	MCR		8/25/2013	INC	138400
Quantity: 2											
AA535904	OIL-1	DM01	55	LIQUID	112	10/25/2013	MCR		8/25/2013	INC	138400
AA535905	OIL-2	DM02	55	LIQUID	112	10/25/2013	MCR		8/25/2013	INC	138400
AA535906	OIL-3	DM03	55	LIQUID	112	10/25/2013	MCR		8/25/2013	INC	138400
AA535907	OIL-4	DM04	55	LIQUID	112	10/25/2013	MCR		8/25/2013	INC	138400
AA535908	OIL-5	DM05	55	LIQUID	112	10/25/2013	MCR		8/25/2013	INC	138400
AA535909	OIL-6	DM06	55	LIQUID	112	10/25/2013	MCR		8/25/2013	INC	138400
AA535910	OIL-7	DM07	55	LIQUID	112	10/25/2013	MCR		8/25/2013	INC	138400
AA535911	OIL-8	DM08	55	LIQUID	112	10/25/2013	MCR		8/25/2013	INC	138400
AA535912	OIL-9	DM09	55	LIQUID	112	10/25/2013	MCR		8/25/2013	INC	138400

Disposal Method Key:

CWL: PCB Chemical Waste Landfill - Waste Management, Emelle, AL
DRN: Complete Draining - TCI of Alabama, LLC, Pell City, AL
IHB: TCI Thermal Destruction - TCI of Alabama, LLC, Pell City, AL
INC: PCB Incineration - Veolia, Pt. Arthur, TX
MCR: Metals Cleaning and Recycling - TCI of Alabama, LLC, Pell City, AL
RCY: Recycling - TCI of Alabama, LLC, Pell City, AL
THM: Thermal Destruction - See Attached Outbound
DTX: Dechlorination - See Attached Outbound
IHX: Dechlorination - TCI of Alabama, LLC Pell City, AL

Quality Director

10/28/2013

Date

**TCI of Alabama, LLC**

101 Parkway East
Pell City, AL 35125
Phone: (205) 338-9997
Fax: (205) 338-9979
EPA ID #: ALD983167891

Certificate Number: 133044
Date Issued: 10/28/2013
Manifest Id Number: 001898198GBF
Total Items: 16
Pickup Date: 8/7/2013

Generator: POLYONE CORPORATION

33587 WALKER ROAD
AVON LAKE, OH 44102

Disposal Summary

In accordance with our agreement to provide disposal services, we hereby certify the completion of all items picked up on the above listed manifest. A summary of the disposition is as follows:

the disposition is as follows:											
<u>TCI Barcode</u>	<u>Serial #</u>	<u>Gen Ref #</u>	<u>Size /</u>	<u>Description</u>	<u>PCB (ppm)</u>	<u>Disposed</u>	<u>Item(s)</u>	<u>Outbound</u>	<u>Liquid(s)</u>	<u>Outbound</u>	
			<u>KVA</u>				<u>Method</u>		<u>Disposed</u>		
Quantity: 9											
AA535898	PT-1	1	0	POTENTIAL TRANSFORMER	850	10/25/2013	MCR		8/25/2013	INC	138400
AA535899	PT-2	2	0	POTENTIAL TRANSFORMER	820	10/25/2013	MCR		8/25/2013	INC	138400
AA535900	PT-3	3	0	POTENTIAL TRANSFORMER	673	10/25/2013	MCR		8/25/2013	INC	138400
AA535901	PT-4	4	0	POTENTIAL TRANSFORMER	524	10/25/2013	MCR		8/25/2013	INC	138400
Quantity: 4											
AA535897	DEBRIS		0	SOLIDS	PCB	8/26/2013	CWL	138404			
Quantity: 1											

Disposal Method Key:

CWL: PCB Chemical Waste Landfill - Waste Management, Emelle, AL
DRN: Complete Draining - TCI of Alabama, LLC, Pell City, AL
IHB: TCI Thermal Destruction - TCI of Alabama, LLC, Pell City, AL
INC: PCB Incineration - Veolia, Ft. Arthur, TX
MCR: Metals Cleaning and Recycling - TCI of Alabama, LLC, Pell City, AL
RCY: Recycling - TCI of Alabama, LLC, Pell City, AL
THM: Thermal Destruction - See Attached Outbound
DTX: Dechlorination - See Attached Outbound
IHX: Dechlorination - TCI of Alabama, LLC Pell City, AL

Quality Director

10/28/2013

Date

**TCI of Alabama, LLC**

101 Parkway East
Pell City, AL 35125
Phone: (205) 338-9997
Fax: (205) 338-9979
EPA ID #: ALD983167891

Certificate of Disposal**Certificate Number:** 133044**Generator:** POLYONE CORPORATION**Date Issued:** 10/28/2013**Manifest Id Number:** 001898198GBF

33587 WALKER ROAD

Pickup Date: 8/7/2013

AVON LAKE, OH 44102

We hereby certify that the following PCB items were disposed of by TCI of Alabama, LLC metals cleaning and recycling process as of the date(s) shown below:

Barcode	Description	Serial #	Date
AA535898	POTENTIAL TRANSFORMER	PT-1	10/25/2013
AA535899	POTENTIAL TRANSFORMER	PT-2	10/25/2013
AA535900	POTENTIAL TRANSFORMER	PT-3	10/25/2013
AA535901	POTENTIAL TRANSFORMER	PT-4	10/25/2013
AA535902	CURRENT TRANSFORMER	CT-1	10/25/2013
AA535903	CURRENT TRANSFORMER	CT-2	10/25/2013
AA535904	EMPTY DRUM	OIL-1	10/25/2013
AA535905	EMPTY DRUM	OIL-2	10/25/2013
AA535906	EMPTY DRUM	OIL-3	10/25/2013
AA535907	EMPTY DRUM	OIL-4	10/25/2013
AA535908	EMPTY DRUM	OIL-5	10/25/2013
AA535909	EMPTY DRUM	OIL-6	10/25/2013
AA535910	EMPTY DRUM	OIL-7	10/25/2013
AA535911	EMPTY DRUM	OIL-8	10/25/2013
AA535912	EMPTY DRUM	OIL-9	10/25/2013

Under civil and criminal penalties of law for the making or submission of false or fraudulent statements or representations (18 U.S.C. 1001 and 15 U.S.C. 2615), I certify that the information contained in or accompanying this document is true, accurate, and complete. As to the identified section(s) of this document for which I cannot personally verify truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate, and complete.

Tracy Helms
Quality Director

10/28/2013

Date

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Form Approved OMB No. 2050-0039

Please print or type. (Form designed for use on elite (12-pitch) typewriter.)

UNIFORM HAZARDOUS WASTE MANIFEST		1. Generator ID Number ALD893197891	2. Page 1 of 1	3. Emergency Response Phone 800 424-8300	4. Manifest Tracking Number 011752534 JJK	
5. Generator's Name and Mailing Address TCI OF ALABAMA, LLC 101 PARKWAY EAST PELL CITY, AL 35125-2748 Generator's Phone: (205) 338-8887 Ext						
6. Transporter 1 Company Name ROBBIE D. WOOD, INC.						
7. Transporter 2 Company Name						
8. Designated Facility Name and Site Address VEOLIA ES TECHNICAL SOLUTIONS HIGHWAY 73 PORT ARTHUR, TX 77640 Facility's Phone: (409) 736-2821						
GENERATOR	9a. HM	9b. U.S. DOT Description (Including Proper Shipping Name, Hazard Class, ID Number, and Packing Group (if any))	10. Containers No. Type		11. Total Quantity	12. Unit Wt/Vol
	1.	RQ, UN2315, POLYCHLORINATED BIPHENYLS, LIQUID, 9, PGII (W.O.S. 1857153000)	1	TT	18745	KG
	2.					
	3.					
	4.					
14. Special Handling Instructions and Additional Information PCS FLUID - 488 PPM PCBS TRAILER: 2883 PROFE: 8/28/11 DRFS: 8/20/12 POUNDS: 41,240 WORK ORDER: N/A GALLONS: 5533 EMERGENCY RESPONSE GUIDE: 9171 24 HR EMERGENCY CONTACT: CHEMTREC						
15. GENERATOR/SUFFERER'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgment of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true.						
Generator's Signature/Printed/Typed Name IRACI Helms Signature: [Signature] Month Day Year 10/8/12/13						
INT'L	18. International Shipments <input type="checkbox"/> Import to U.S. <input type="checkbox"/> Export from U.S. Port of entry/exit: _____ Date leaving U.S.: _____					
TRANSPORTER	17. Transporter Acknowledgment of Receipt of Materials Transporter 1 Printed/Typed Name Chris Frye Signature: [Signature] Month Day Year 10/8/12/13					
	Transporter 2 Printed/Typed Name _____ Signature: _____ Month Day Year _____					
DESIGNATED FACILITY	18. Discrepancy 18a. Discrepancy Indication Space <input type="checkbox"/> Quantity <input type="checkbox"/> Type <input type="checkbox"/> Residue <input type="checkbox"/> Partial Rejection <input type="checkbox"/> Full Rejection Manifest Reference Number: _____ U.S. EPA ID Number: _____					
	16b. Alternate Facility (or Generator) Facility's Phone: _____					
	18c. Signature of Alternate Facility (or Generator) _____ Month Day Year _____					
	19. Hazardous Waste Report Management Method Codes (i.e., codes for hazardous waste treatment, disposal, and recycling systems) 1. 1010 2. _____ 3. _____ 4. _____					
	20. Designated Facility Owner or Operator: Certification of receipt of hazardous materials covered by this manifest except as noted in Item 16a Printed/Typed Name Josette M. H. H. H. Signature: [Signature] Month Day Year 10/8/12/13					



13400

Veolia ES Technical Solutions, L.L.C.
Federal EPA ID: TXD000838896
State EPA ID: 50212-001
Highway 73, 3.5 miles W. of Taylor's Bayou Bridge
Port Arthur, TX 77643
(409) 736-2821

TCI OF ALABAMA, LLC
101 PARKWAY EAST

PELL CITY, AL 35125-2749

ATTN: GREG MASSARO

RECEIVED SEP 25 2013

CERTIFICATE OF DESTRUCTION

Veolia ES Technical Solutions, L.L.C. has received waste material from TCI OF ALABAMA, LLC (Fed EPA ID - ALD983167891) on 8/23/2013 as described on [State Manifest or Uniform] Hazardous Waste Manifest number 011752534.JJK. Veolia ES Technical Solutions, L.L.C., hereby certifies that the above described material was incinerated, and thereby destroyed, in accordance with the 40 CFR, part 761, as it pertains to the incineration of Poly-Chlorinated Biphenyl contaminated materials.

Sequence 1

Profile Number: PTABV2871

Veolia Tracking ID: 701284

<u>Process</u>	<u>Veolia Unit ID</u>	<u>Treatment Date</u>	<u>Generator #</u>	<u>Inter-Company #</u>
INCINERATION	1	8/25/2013	451858824000001010	451858824000001010

Under civil and criminal penalties of law for the making or submission of false or fraudulent statements or representations (18 U.S.C. 1001 and 15 U.S.C. 2615), I certify that the information contained in or accompanying this document is true, accurate, and complete. As to the identified section(s) of this document for which I cannot personally verify truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate, and complete.

Paul V. Conrad
Material Services Manager

05-Sep-13

13404

138404

Form Approved OMB No. 2050-0039

Please print or type. (Form designed for use on elite (12-pitch) typewriter.)

UNIFORM HAZARDOUS WASTE MANIFEST		1. Generator ID Number ALD983167881	2. Page 1 of 1	3. Emergency Response Phone 800 424-8300	4. Manifest Tracking Number 011752527 JJK	
5. Generator's Name and Mailing Address TCL OF ALABAMA, LLC 101 PARADISE EAST PELL CITY, AL 35126-2749 Generator's Phone: (205) 338-8887 Ext Generator's Site Address (if different than mailing address) Ext. Greg Classroom						
6. Transporter 1 Company Name ROBBIE D. WOOD, INC.					U.S. EPA ID Number ALD087138881	
7. Transporter 2 Company Name					U.S. EPA ID Number	
8. Designated Facility Name and Site Address CHEMICAL WASTE MANAGEMENT AL HWY. 17, MILE MARKER 183 EMELLE, AL 36558 Facility's Phone: (205) 652-8721 P.O. BOX 55, EMELLE FACILITY					U.S. EPA ID Number ALD000822484	
GENERATOR	9a. HM	9b. U.S. DOT Description (including Proper Shipping Name, Hazard Class, ID Number, and Packing Group (if any))		10. Containers No.	Type	11. Total Quantity
	1.	RQ, UN332, POLYCHLORINATED BIPHENYLS, SOLID, 8, PGH		1	DT	17100 KG
	2.	RECEIVED AUG 29 2013				
	3.					
	4.					
14. Special Handling Instructions and Additional Information CONTAINER OF PCB SOLIDS >40 PPM PCBs TRAILER: 1127 DRPS: 7/22/13 POUNDS: 37620 PROBLE: AN8834 WORK ORDER: 1011209 EMERGENCY RESPONSE GUIDE: 8171 24 HR EMERGENCY CONTACT: CHEMTREC						
15. GENERATOR'S/SHIPPER'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgment of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true.						
Generator's/Shipper's Printed/Typed Name Trace Helms Signature [Signature] Month Day Year 10/26/13						
TRANSPORTER	16. International Shipments <input type="checkbox"/> Import to U.S. <input type="checkbox"/> Export from U.S. Port of export: _____ Date leaving U.S.: _____					
	17. Transporter Acknowledgment of Receipt of Materials Transporter 1 Printed/Typed Name Central Express Signature [Signature] Month Day Year 8/26/13 Transporter 2 Printed/Typed Name Signature Month Day Year					
DESIGNATED FACILITY	18. Discrepancy 18a. Discrepancy Indication Spec <input type="checkbox"/> Quantity <input type="checkbox"/> Type <input type="checkbox"/> Residue <input type="checkbox"/> Partial Rejection <input type="checkbox"/> Full Rejection Manifest Reference Number: _____					
	18b. Alternate Facility (or Generator) U.S. EPA ID Number: _____					
	Facility's Phone: _____					
	18c. Signature of Alternate Facility (or Generator) Month Day Year					
	19. Hazardous Waste Report Management Method Codes (i.e., codes for hazardous waste treatment, disposal, and recycling systems) 1. H132 2. 3. 4.					
20. Designated Facility Owner or Operator: Certification of receipt of hazardous materials covered by the manifest except as noted in item 18a Printed/Typed Name Mal Alexander Signature [Signature] Month Day Year 8/26/13						

WM

Chemical Waste Management
P.O. Box 55
36964 Alabama Hwy 17
Emelle, AL 35459-0055
(205)652-9721

Manifest Document Number:

RECEIVED AUG 29 2013

TCI OF ALABAMA LLC
101 PARKWAY EAST

PELL CITY, AL 35125-2749

Attn: GREG MASSARO

13404

Site Information

TCI OF ALABAMA LLC
101 PARKWAY E

PELL CITY, AL 35125-2749

CERTIFICATE OF DISPOSAL

Chemical Waste Management, Inc. (ALD000622464) has received PCB material from
TCI OF ALABAMA LLC

as described on Hazardous Waste Manifest Number 011752527JJK-1

Waste Management, Inc. hereby certifies that the above described material (excluding PCB liquids, if applicable) was
landfilled on the dates shown below, in compliance with State and Federal Regulations.

Under civil and criminal penalties of law for the making or submission of false or fraudulent statements or
representation (18 U.S.C. 1001 and 15 U.S.C. 2615), I certify that the information contained in or accompanying this
document is true, accurate and complete. As to the identified section(s) of this document for which I cannot personally
verify truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting
under my direct instructions, made the verification that this information is true, accurate and complete.



Al Talbott, Safety Manager

August 27, 2013

OSD	Unique ID	Cont #	Profile	Disposed	Description
7/10/13	011752527JJK-01	1	AN6834	8/26/13	PCB SOLIDS

BOOK
CARD
VET
DATA
CHANGE

This Indenture,

Made the 27th day of July, in the year of our Lord
One Thousand Nine Hundred and Seventy-Nine

CONGOLEUM CORPORATION, a corporation of the State of
Delaware with its principal place of business at First Wisconsin Center,
777 East Wisconsin Avenue

COUNTY OF HUDSON
CONSIDERATION \$1,000,000.00
REALTY TRANSFER FEE 3500.00
DATE 6/2/79 BY [Signature]

in the City of Milwaukee County of Milwaukee
and State of Wisconsin party of the first part;

And Pantlin & Chananie Development Corp., a New York corporation,
with offices at 625 From Road, Paramus, N.J. 07625

in the County of
and State of party of the second part;

Witnesseth, That the said party of the first part, for and in consideration of
ONE MILLION (\$1,000,000.00) DOLLARS
lawful money of the United States of America, to it in hand well and truly paid by the said
party of the second part, at or before the sealing and delivery of these presents, the receipt whereof is
hereby acknowledged, and the said party of the first part being therewith fully satisfied, contented and
paid, has given, granted, bargained, sold, aliened, released, enfeoffed, conveyed and confirmed and by
these presents does give, grant, bargain, sell, alien, release, enfeoff, convey and confirm unto the said
party of the second part, and to its successors
and assigns, forever,

All that
tract or parcel of land and premises, hereinafter particularly described, situate, lying and being
in the Town of Kearny County of Hudson
and State of New Jersey, more particularly described as follows:

BEGINNING at a point in the southerly line of Bergen Avenue, therein
distant 259.23 feet west of the westerly line of Belgrove Drive, and
running thence (1) westerly along the aforesaid line of Bergen Avenue,
North 56 degrees 54 minutes 30 seconds West 670.77 feet to the easterly
line of Passaic Avenue, thence (2) southerly along the aforesaid line
of Passaic Avenue, South 23 degrees 59 minutes West 914.77 feet to an
angle point, thence (3) southerly and still along the easterly line of
Passaic Avenue, South 19 degrees 44 minutes West, 104.77 feet, thence
(4) South 64 degrees 31 minutes 45 seconds East, 246.10 feet, thence
(5) South 2 degrees 55 minutes 27 seconds West, 38.98 feet, thence
(6) South 25 degrees 33 minutes 45 seconds West, 141.28 feet, thence
(7) South 64 degrees 20 minutes East, 107.82 feet, thence (8) North
25 degrees 25 minutes 15 seconds East, 175.49 feet, thence (9) South
64 degrees 32 minutes 45 seconds East, 169.75 feet, thence (10) North
25 degrees 27 minutes 15 seconds East, 18.35 feet, thence (11) South
64 degrees 32 minutes 45 seconds East, 1.25 feet; thence (12) North
25 degrees 27 minutes 15 seconds East, 2.81 feet, thence (13) South
64 degrees 27 minutes 40 seconds East, 2.33 feet, thence (14) North
25 degrees 32 minutes 20 seconds East, 0.75 feet, thence (15) South
64 degrees 27 minutes 40 seconds East, 67.72 feet, thence (16) North
26 degrees 47 minutes 55 seconds East, 910.28 feet to the southerly
line of Bergen Avenue and the point and place of BEGINNING.

BEING situated in the Town of Kearny, Hudson County, New Jersey.

The aforesaid description being made in accordance with a sub-division
map dated January 15, 1974, revised February 5, 1974, prepared by

BLOCK 15 LOT 6

104-2

Walter M. Staskus, L.S. , approved by the Kearny Planning Board on October 2, 1974, and filed with the Register of Hudson County on December 17, 1974, as map no. 2789.

Being part of the same premises conveyed to party of the first part by Deed from Congoleum-Nairn, Inc., dated September 30, 1968 and recorded September 30, 1968 in Book 3044 Page 808.

This conveyance is subject to easements and restrictions of record and such state of facts as an accurate survey and inspection of the premises would disclose.

LIBER 3281 1138

The following references are not in any way descriptive, except for tax purposes, of the property described, nor do they establish legal boundaries.

*The property is presently designated as part of Block 15 Lot 8
(or Account No.) in the tax map of the municipality wherein it is situated.*

002914

DEED

Prepared by: (Print signor's name below signature)

This Deed is made on March 16, 1987

Robert J. DeAngelis, Esq.

BETWEEN CONGOLEUM CORPORATION

ADDRESS

a corporation of the state of Delaware
 having its principal office at 195 Belgrove Drive, Kearny, New Jersey

referred to as the Grantor.

AND BELGROVE ARMS, a New Jersey general partnership

whose post office address is 930 Clifton Avenue, Clifton, New Jersey 07015

referred to as the Grantee.

The word "Grantee" shall mean all Grantees listed above.

Transfer of Ownership. The Grantor grants and conveys (transfers ownership of) the property described below to the Grantee. This transfer is made for the sum of THREE MILLION ONE HUNDRED THOUSAND (\$3,100,000) DOLLARS

The Grantor acknowledges receipt of this money.

Tax Map Reference. (N.J.S.A. 46:15-2.1) Municipality of
 Block No. 15 Lot No. 8A, 9, 19, 20, 21, 23A Account No.

☐ No property tax identification number is available on the date of this Deed. (Check box if applicable.)

Property. The property consists of the land and all the buildings and structures on the land in the Town of Kearny
 County of Hudson and State of New Jersey. The legal description is.

See Exhibit A attached hereto

Consideration	\$ 3,100,000.00	R.F.	15,275.00
Realty Transfer Fee	10,850.00	Rec.	21.00
Add'l. Fees	25.87		
Add'l. N.C.	4,425.00		
By <i>[Signature]</i> Total \$	15,275.00	AmL Rec.	15,296.00

✓✓	BOOK	6/7/87
✓✓	CARD	6/11/87
	VER	
	S.D.	
	DATE	
✓✓	CHAS	5/7/87

Be. 15- L 8.A-56-58 Bergen Ave.
 15 9 60-66 Bergen Ave
 15 19 141-245 Belgrove Dr.

LIBER 3716 161

SCHEDULE "A"

~~ADJUDICATOR~~

All that certain tract or parcel of land and premises, situate, lying and being in the Town of Kearny, in the County of Hudson, State of New Jersey, more particularly described herein.

BEGINNING at a point on the northwesterly side line of Belgrove Drive (60 feet wide) distant therein 275.00 feet southwesterly from its intersection with the southwesterly side line of Bergen Avenue, and from thence running;

- 1) Along the northwesterly side line of Belgrove Drive, South 29 degrees 42 minutes West 817.78 feet; thence
- 2) Still along said line of Belgrove Drive, on a curve to the left having a radius of 2,135.05 feet, an arc distance of 263.64 feet; thence
- 3) Still along said line of Belgrove Drive, South 22 degrees 39 minutes West, 229.88 feet; thence
- 4) North 67 degrees 21 minutes West 138.60 feet; thence
- 5) North 17 degrees 56 minutes 28 seconds East 304.15 feet; thence
- 6) North 73 degrees 55 minutes West 17.25 feet; thence
- 7) North 16 degrees 05 minutes East 87.50 feet; thence
- 8) North 26 degrees 05 minutes East 325.93 feet; thence
- 9) North 26 degrees 47 minutes 55 seconds East 910.28 feet to the southwesterly side line of Bergen Avenue; thence
- 10) Along said line of Bergen Avenue, South 56 degrees 53 minutes East 154.87 feet; thence
- 11) South 28 degrees 06 minutes West 278.16 feet; thence
- 12) South 60 degrees 18 minutes East 96.50 feet to the northwesterly side line of Belgrove Drive and the point and place of BEGINNING.

THE foregoing description is drawn from a survey made by Albert N. Faraldi Group, P.C., dated August 26, 1986.

BEING commonly known as 195 Belgrove Drive, Kearny, New Jersey.

NOTE: Being Lot(s) 8A,9,19,20,21,23A, Block 15, Tax Map of the Town of Kearny.

~~EXHIBIT A~~

BATH INDUSTRIES, INC.—CONGOLEUM-NAIRN INC.

PLAN AND AGREEMENT OF MERGER

PLAN AND AGREEMENT OF MERGER (hereinafter referred to as "Agreement") dated the 10th day of JULY, 1968, by and between BATH INDUSTRIES, INC., a corporation organized and existing under the laws of the State of Delaware (hereinafter referred to as "Bath"), and CONGOLEUM-NAIRN INC., a corporation organized and existing under the laws of the State of New York (hereinafter referred to as "Congoleum"), which parties are herein sometimes referred to collectively as the "Constituent Corporations";

WITNESSETH :

WHEREAS, Congoleum (a) is a corporation duly organized and existing under the laws of the State of New York, having been originally incorporated thereunder as "Congoleum Company, Inc." on June 23, 1919, and having adopted its present name October 25, 1924; and (b) has its executive offices at 195 Belgrove Drive, Kearney, New Jersey, and its office in the State of New York at 666 Fifth Avenue, New York, New York; and

WHEREAS, Bath (a) is a corporation duly organized and existing under the laws of the State of Delaware, having been incorporated on May 11, 1967; (b) has its registered office in the State of Delaware at 100 West Tenth Street, Wilmington, Delaware and The Corporation Trust Company is the registered agent in charge thereof and upon whom legal process against Bath may be served within the State of Delaware; and (c) is not authorized and does not plan to do business in the State of New York.

WHEREAS, Section 251 of the General Corporation Law of the State of Delaware and Section 907 of the New York Business Corporation Law authorize the merger of Congoleum into Bath.

NOW, THEREFORE, the Constituent Corporations agree, in accordance with Delaware and New York law, that Congoleum shall be merged into Bath as the surviving corporation (hereinafter sometimes referred to as the "Surviving Corporation") and that the terms and conditions of the merger and the mode of carrying it into effect shall be as follows:

ARTICLE I

NAME AND STATE OF INCORPORATION OF SURVIVING CORPORATION

The name of the Surviving Corporation shall be BATH INDUSTRIES, INC., and it shall exist by virtue of and be governed by the laws of the State of Delaware.

ARTICLE II

CERTIFICATE OF INCORPORATION AND BY-LAWS OF THE SURVIVING CORPORATION

(a) The Certificate of Incorporation, as amended, of Bath, as in effect on the date hereof, shall be further amended and restated upon effectiveness of the merger to read as set forth in the Restated Certificate of Incorporation of Bath Industries, Inc., comprising Exhibit 1 hereto. Simultaneously with the filing of the Agreement in the Office of the Secretary of State of the State of Delaware, Bath will also file a certificate pursuant to Section 151 of the Delaware Corporation Law designating an appropriate number of shares of the No Par Preferred Stock of Bath (hereinafter called the "Bath Preferred Stock") as Series A \$5 Cumulative Convertible Preferred Stock (hereinafter called

the "Series A Stock") with additional terms as stated in such certificate, which certificate shall be in the form of Exhibit 2 hereto except for completion thereof, in light of subsequent facts and market prices of the Common Stock of Bath (hereinafter called the "Bath Common Stock"), in accordance with the footnotes contained in said Exhibit 2 and the table constituting Exhibit 2-a hereto. The said Restated Certificate of Incorporation, as supplemented by the said certificate pursuant to Section 151 of the Delaware Corporation Law shall from and after the Effective Time be and continue to be the Certificate of Incorporation of Bath until further amended or supplemented as provided by law.

(b) Upon effectiveness of the merger and until further altered, amended or repealed by the shareholders or the Board of Directors of the Surviving Corporation, the By-Laws of Bath as they now exist shall be the By-Laws of the Surviving Corporation.

ARTICLE III

DIRECTORS OF SURVIVING CORPORATION

The names of the first directors of the Surviving Corporation, after the Effective Time of the merger, who shall hold office until their respective terms expire and until their respective successors have been elected and qualified, are as follows:

Emmet J. Blot
M. E. Dowd, Jr.
William P. Drake
Milton V. Freeman
James F. Goodrich
J. Kenneth Hall

Richard L. Harrington
William D. Kyle, Jr.
Roger D. Lapham, Jr.
Robert L. Manegold
John W. O'Boyle

ARTICLE IV

MANNER OF CONVERSION OF SHARES AND OPTIONS

(a) None of the authorized shares of the capital stock of Bath, whether Bath Common Stock or Bath Preferred Stock, and none of the outstanding Stock Purchase Warrants of Bath shall be changed or converted as a result of the merger. At the Effective Time of the merger, all said shares of the capital stock of Bath shall be and be deemed to be the authorized shares of Bath Common Stock and Bath Preferred Stock respectively, of the Surviving Corporation, and all shares of Bath Common Stock outstanding at the Effective Time of the merger shall remain outstanding, shall be and be deemed to be fully paid and non-assessable, and shall be subject to all of the provisions of this Agreement.

(b) Upon effectiveness of the merger the shares of Common Stock of Congoleum (hereinafter called the "Congoleum Common Stock") shall be converted into shares of Series A Stock of the Surviving Corporation as follows:

(1) At the Effective Time of the merger, the stock transfer books of Congoleum shall be closed and no transfer of shares of Congoleum Common Stock shall thereafter be made or consummated.

(2) At the Effective Time of the merger, each share of Congoleum Common Stock then held of record by Bath and by Congoleum shall become void.

(3) Subject to the various provisions in this Article IV, at the Effective Time of the merger the shares of Congoleum Common Stock held of record by holders other than Bath or Congoleum shall be converted into shares of Series A Stock of the Surviving Corporation at the rate of one-third of a share of Series A Stock for each share of Congoleum Common Stock, provided, however, that no fractional shares of Series A Stock and no scrip in lieu thereof shall be issued to represent any fractional interest to which Congoleum stockholders may be entitled.

(c) Each holder of shares of Congoleum Common Stock, upon the surrender to the Exchange Agent of one or more certificates for such shares for cancellation, shall receive a certificate for, or certificates aggregating, the whole number of shares of Series A Stock into which such holder's shares of Congoleum Common Stock shall have been converted by the provisions of Section (b) above.

(d) The Manufacturers Hanover Trust Company (herein referred to as the "Exchange Agent") is hereby appointed, which appointment shall automatically be confirmed by the stockholders of Congoleum upon the approval by them of the transaction contemplated by this Agreement, the agent for Congoleum and for its stockholders to effectuate the exchange of Congoleum Common Stock for Series A Stock.

(e) No fractional shares of Series A Stock and no scrip certificates therefor shall be issued to represent any fractional share interests to which Congoleum stockholders may be entitled, and such fractional share interests shall not entitle the owners thereof to vote, to receive dividends or to exercise any other right of stockholders of the Surviving Corporation. Arrangements will be made with the Exchange Agent referred to in Section (d) above to act as agent for the owners of such fractional share interests, and to purchase and sell fractional share interests in the following manner: For 60 days after the Effective Time each person entitled to a fractional share interest as a result of the conversion provided for in this Agreement, upon surrender of his certificate or certificates therefor representing Congoleum Common Stock, will be able through the Exchange Agent to purchase such fractional share interest as is required to make up one whole share of Series A Stock of the Surviving Corporation or to sell such fractional share interest to which he is so entitled as aforesaid. If no request for the purchase or sale of fractional interests is received by the Exchange Agent upon the surrender of any such certificate or certificates, the Exchange Agent will sell any fractional share interest relating thereto for the account of the holder thereof. Promptly after the expiration of such period said Exchange Agent will sell, for the respective accounts of the holders of such remaining fractional share interests as may then exist, as indicated by the certificates theretofore representing Congoleum Common Stock which shall not then have been surrendered for exchange as hereinabove provided, the number of whole shares of Series A Stock of the Surviving Corporation equivalent to the aggregate of such remaining fractional share interests. Said Exchange Agent will thenceforth and until six years after the Effective Time pay to each such holder, upon surrender of his certificate or certificates, as provided in this Agreement, his pro rata share of the proceeds of such sale without interest. The proceeds, if any, of such sale remaining after the expiration of such six-year period shall be paid over to and shall become the property of the Surviving Corporation, free and clear of all claims or interests of any person previously entitled thereto. Purchases and sales of fractional share interests for the account of stockholders will be effected daily on the basis of the closing market price per share of Series A Stock of the Surviving Corporation on the New York Stock Exchange. The Exchange Agent will be given the right to offset buying and selling orders to the extent possible. No service charges, brokerage commissions or transfer taxes will be payable in connection with such purchases and sales, all of which costs will be defrayed by the Surviving Corporation.

(f) Notwithstanding the foregoing, no holder of shares of Congoleum Common Stock shall be entitled to vote or to receive payment of any dividends declared upon his shares of Series A Stock until such time as the certificate or certificates representing his shares of Congoleum Common Stock shall be duly surrendered to the Exchange Agent for cancellation. Until such time, all dividends declared and paid upon his shares of Series A Stock shall be deposited by the Surviving Corporation in a segregated bank account for payment to him upon the surrender of his shares of Congoleum Common Stock for cancellation. Such segregated bank account may include similar deposits relating to other holders of shares of Congoleum Common Stock.

(g) At the Effective Time, Bath shall assume all options to purchase shares of Congoleum Common Stock granted by Congoleum under its Employees' Incentive Stock Option Plan of 1954 to the extent that such options are outstanding at the Effective Time, whether or not then exercisable, by substituting for the shares of Congoleum Common Stock subject to such options shares of Series A

Stock on the basis set forth in Subsection (b)(3) of this Article IV, rounded where there is any resulting fraction to the nearest lower number of whole shares of Series A Stock, at an option price per share of Series A Stock equivalent to three times the respective option price per share of Congoleum Common Stock specified in the existing options.

Congoleum has furnished Bath with a list of the holders of all outstanding stock options granted under its Qualified Stock Option Plan of 1966. These options provide that upon a merger similar to this merger the optionees shall have the right immediately prior to the effectiveness of the merger to exercise such options in whole or in part without regard to their installment provisions and that, to the extent not exercised, such options shall terminate upon effectiveness of the merger. Simultaneously with the execution of this Agreement, each of such optionees is being offered the opportunity, contingent upon effectiveness of the merger, to waive his said right and instead have substituted for his option an option to purchase such number of shares of Series A Stock as is equivalent to one-third of the number of shares of Congoleum Common Stock covered by his option, rounded where there is any resulting fraction to the nearest lower number of whole shares of Series A Stock, at the option price per share of Series A Stock of three times the option price per share for the Congoleum Common Stock and upon the same other terms and conditions as in his present option. Bath hereby agrees, contingent upon effectiveness of the merger, to substitute options to purchase its Series A Stock for those of the Congoleum options whose holders accept such offer.

ARTICLE V

EFFECT OF MERGER

(a) The separate existence of Congoleum, except to the extent, if any, continued by statute, shall cease at the Effective Time of the merger, and thereupon Bath and Congoleum shall become a single corporation, subject to all the restrictions, disabilities, duties and liabilities of the Constituent Corporations so merged. The Surviving Corporation reserves the right after the Effective Time to amend, alter, change or repeal any provision contained in the Certificate of Incorporation of the Surviving Corporation in the manner now or hereafter prescribed by the Delaware Corporation Law, and all rights conferred upon shareholders of the Surviving Corporation herein are granted subject to this reservation.

(b) The corporate identity, existence, purposes, rights, privileges, immunities, powers, franchises, as well of a public as of a private nature, and authority of Bath shall continue unaffected and unimpaired by the merger and the corporate identity, existence, purposes, rights, privileges, immunities, powers, franchises, as well of a public as of a private nature, and authority of Congoleum shall be merged into Bath and Bath shall succeed to and be fully vested therewith.

(c) All the property, assets and business of every description, whether real, personal or mixed, and every interest therein, and all obligations belonging to or due to either Constituent Corporation, on whatever account, as well for subscriptions to shares of stock of either Constituent Corporation as for all other choses or things in action or belonging to either Constituent Corporation, shall be taken and be deemed to be transferred to and vested in the Surviving Corporation without further act or deed, and all property, rights, privileges, powers and franchises, and all and every other interest of either Constituent Corporation shall be thereafter as effectually the property of the Surviving Corporation as they were of the Constituent Corporations and the title to any real estate vested by deed or otherwise in either Constituent Corporation shall not revert or be in any way impaired as a result of this merger.

(d) All rights of creditors of each Constituent Corporation and all liens upon any property of each Constituent Corporation shall be preserved unimpaired, and all debts, obligations, liabilities and duties of each Constituent Corporation shall thenceforth attach to and shall be assumed by the Surviving Corporation and may be enforced against the Surviving Corporation to the same extent as if said debts, liabilities and duties had been incurred or contracted by it.

ARTICLE VI

REPRESENTATIONS AND WARRANTIES OF CONGOLEUM

Congoleum represents and warrants as follows:

(a) Congoleum and each of its subsidiaries (i) is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is incorporated; (ii) is duly qualified to do business in and is in good standing in all jurisdictions in which its current business operations require qualification under applicable law; (iii) has the corporate power and authority to own or lease its properties and to carry on its business as now conducted; and (iv) subject to the approval and adoption by the holders of Congoleum Common Stock contemplated hereby, has full corporate power and authority to carry out the transaction contemplated hereby.

(b) The execution and delivery of this Agreement does not, and, subject to the approval and adoption by the holders of Congoleum Common Stock contemplated hereby and any approvals required under agreements pursuant to which Congoleum has borrowed money or obtained credit or extensions thereof, the consummation of the transaction contemplated hereby will not, violate any provision of Congoleum's Certificate of Incorporation or By-Laws, or any provision of, or result in the acceleration of any obligation under, any mortgage, lien, lease, agreement, instrument, court order, arbitration award, judgment or decree to which Congoleum or any of its subsidiaries is a party or by which it or any of them is bound and will not violate any other restriction of any kind or character to which it or any of them is subject, excluding, in all cases referred to in this sentence, any violation or acceleration which would not have a material adverse effect upon the financial condition or business of Congoleum and its subsidiaries taken as a whole. Congoleum has delivered to Bath true and correct copies of its Certificate of Incorporation, By-Laws and agreements pursuant to which it has borrowed or is entitled to borrow money.

(c) The authorized capital stock of Congoleum consists of 5,000,000 shares, par value \$5 per share, of Common Stock of which, as of the close of business on March 31, 1968, 2,780,000 shares were validly issued, fully paid and non-assessable, consisting of 2,531,350 shares outstanding and 228,650 shares held in its treasury. On the same date 82,510 shares of such Common Stock were reserved for issuance on the exercise of employee stock options granted under Congoleum's Employees' Incentive Stock Option Plan of 1954 and Qualified Stock Option Plan of 1966. Congoleum has delivered to Bath copies of such Stock Option Plans, of the forms of option granted thereunder, and a list of all holders of its employee stock options showing names, dates of grant, expiration dates, purchase prices and numbers of shares subject to option. There is no existing option, warrant, call or commitment of any character for the issuance or sale by Congoleum or any of its subsidiaries of their authorized and unissued capital stock or treasury stock, other than as referred to above. Congoleum has good and marketable title to all shares of stock of its subsidiaries, free and clear of any mortgage, pledge, lien, charge or encumbrance and all such shares are validly issued, fully paid and non-assessable.

(d) Congoleum has delivered to Bath copies of its annual reports for the fiscal years ending December 31, 1963 through December 31, 1967, each of which contains a consolidated balance sheet of Congoleum and its then subsidiary companies and a statement of consolidated income and earned surplus for such fiscal year, all certified by Arthur Andersen & Co. Such balance sheets and statements of consolidated income and earned surplus have been prepared in accordance with generally accepted accounting principles consistently followed throughout the periods indicated, and fairly present the financial condition of Congoleum and its said subsidiaries at the respective dates indicated and the results of its operations for the respective periods indicated. Congoleum has also delivered to Bath the Agreement dated January 19, 1968 pursuant to which Congoleum acquired all of the outstanding stock of Kinder Manufacturing Company, Inc. ("Kinder") on February 2, 1968, and attached to which, as Exhibit B-2, is a consolidated balance sheet of Kinder and its subsidiaries as of November 30, 1967, and consolidated statements of income, capital surplus and retained earnings and funds for the nine-month period then ended, all certified by Arthur Andersen & Co. Such balance sheets and statements of consolidated income, capital surplus and retained earnings and funds have

been prepared in accordance with the generally accepted accounting principles and fairly present the financial condition of Kinder and its subsidiaries at November 30, 1967, and the results of its operations for the nine months then ended.

(e) Except as described or referred to in letters or memoranda heretofore furnished to Bath or its counsel, there are no material liabilities of Congoleum or its subsidiaries, whether absolute, accrued, contingent, or otherwise, or which it has or reasonably should have knowledge other than (i) liabilities disclosed or adequately provided for in said balance sheets, (ii) liabilities incurred in the ordinary course of business since the dates of said balance sheets, (iii) liabilities represented by 5% Promissory Notes in the amount of \$4,465,563.75 issued on February 2, 1968 in the acquisition by Congoleum of all outstanding stock of Kinder which Congoleum purchased for an aggregate purchase price of \$6,057,405, with the balance paid in cash, and (iv) liabilities of Kinder and its subsidiaries certain of which have been guaranteed by Congoleum.

(f) Neither Congoleum nor any Congoleum subsidiary, nor, to the knowledge of Congoleum, any other party thereto, has breached any material provision of, or is in default in any material respect under the terms of, any contract, agreement, plan, lease or license, a breach of which, or a default under which, would have a material adverse effect upon the financial condition or business of Congoleum and its subsidiaries taken as a whole.

(g) Since December 31, 1967, there has not been any material adverse change in the financial condition or business of Congoleum and its subsidiaries taken as a whole.

(h) Congoleum and its subsidiaries have good and marketable title to all of their properties and assets, real and personal, including without limitation those reflected on the said balance sheet as of December 31, 1967 except as disposed of in the ordinary course of business, subject to no mortgage, pledge, lien, conditional sales agreement, security agreement or interest, encumbrance or charge, except (i) liens of current state and local property taxes not delinquent or subject to penalty; (ii) minor encumbrances of title or imperfections, if any, which are not substantial in amount and which do not materially detract from the value of the properties and assets subject thereto or materially impair the operations of Congoleum and its subsidiaries; (iii) zoning ordinances, and other governmental rules and regulations, if any, none of which is violated by existing buildings and present use in such manner as to materially adversely affect such present use by Congoleum and its subsidiaries; and (iv) in case of Kinder and its subsidiaries, mortgages and liens on various of their properties.

(i) The amount set up as provision for taxes on said balance sheet as of December 31, 1967 is substantially sufficient for the payment of all accrued and unpaid federal, state, county and local taxes payable by Congoleum and its then subsidiaries, whether or not disputed, for the year then ended and all fiscal years prior thereto. Federal income tax returns of Congoleum and its subsidiaries (other than Kinder and its subsidiaries) have been examined by the Internal Revenue Service for all past fiscal years through the fiscal year ended December 31, 1964 (except that the returns of Lewis Carpet Mills, Inc. have not been examined), and all deficiencies proposed as a result of such examinations for Congoleum and its subsidiaries (other than Kinder and its subsidiaries) have been paid, settled or provided for on Congoleum's said balance sheet as of December 31, 1967. The amounts set up as provisions for taxes on the said audited consolidated balance sheet of Kinder and its subsidiaries as of November 30, 1967 is substantially sufficient for all accrued and unpaid federal, state, county and local taxes payable by Kinder and its subsidiaries, whether or not disputed, for the nine months then ended, and for all fiscal periods prior thereto. Federal income tax returns of Kinder and its subsidiaries have been examined by the Internal Revenue Service as follows:

Kinder and its subsidiary, Kinder Transportation Corp.—all past fiscal years through the fiscal year ended February 28, 1967;

Fred V. Gentsch, Inc.—all past fiscal years through the fiscal year ended February 29, 1964;

The federal income tax returns of K-Mar Industries, Inc. have not been examined.

All deficiencies proposed as a result of such examinations have been paid, settled, or provided for on Kinder's said consolidated balance sheet as of November 30, 1967.

(j) The net amount (after provision for doubtful accounts) of the accounts and notes receivable of Congoleum and its subsidiaries as shown on the said balance sheet as of December 31, 1967 of Congoleum and its subsidiaries (other than Kinder and its subsidiaries) is good and collectible, and the inventories shown on said balance sheet and thereafter acquired to the Effective Time are, and at the Effective Time (to the extent not disposed of in the ordinary course of business) will be, good, usable and saleable as current inventories in the ordinary course of the business of Congoleum and its said subsidiaries. The net amounts (after provision for doubtful accounts) of the accounts and notes receivable of Kinder and its subsidiaries, as shown on the said balance sheet of Kinder and its subsidiaries as of November 30, 1967 are good and collectible, and the inventories shown on said balance sheet and thereafter acquired to the Effective Time are, and at the Effective Time (to the extent not disposed of in the ordinary course of business) will be, good, usable and saleable as current inventories in the ordinary course of the business of Kinder and its subsidiaries.

(k) Congoleum has delivered to Bath or its counsel a complete and correct list and summary description of all patent, patent applications, trademarks, trade names, copyrights, and licenses therefor, held or used by, or given to others by, Congoleum and its subsidiaries. Congoleum or its subsidiaries have good title to all of the foregoing, or the valid right to use same, and the same are sufficient for the conduct of their respective businesses as now conducted, and to the best of its knowledge do not conflict with the rights of others.

(l) Congoleum has delivered to Bath or its counsel a complete and correct list and summary description of all real property owned by or leased to Congoleum and its subsidiaries. The plants or structures located thereon and the equipment therein are in good operating condition and repair.

(m) Congoleum has delivered to Bath or its counsel a complete and correct list of all material contracts to which Congoleum and its subsidiaries are a party, whether written or oral, other than (i) license agreements described in the list referred to in Section (k); (ii) insurance policies described in the list referred to in Section (n); (iii) labor contracts described in the list referred to in Section (q); (iv) agreements delivered pursuant to Section (p); (v) maintenance, service and other similar contracts that expire within six months or may be terminated on not exceeding 60 days' notice or involve annual payments not exceeding \$25,000 in any case; and (vi) contracts for the purchase of raw materials, supplies and utilities used in the ordinary course of business not exceeding \$1,000,000.

(n) Congoleum has delivered to Bath or its counsel a complete and correct list and summary description of all insurance policies held by Congoleum and its subsidiaries, which policies are in force and effect as of the date hereof and will be continued in force and effect until the Effective Time.

(o) Congoleum has delivered to Bath or its counsel a complete and correct list of each bank with which Congoleum or its subsidiaries have an account, or a safe deposit box, lock box or other bank service account, and the names of all persons authorized to draw thereon or have access thereto.

(p) Congoleum has delivered to Bath or its counsel complete and correct copies of all employment or retirement agreements with persons whose present base compensation or retirement payments from Congoleum or its subsidiaries is at an annual rate of \$25,000 or more (excluding contracts with salesmen and manufacturers' representatives whose compensation is a commission based on volume of sales or includes a bonus for complying with pre-established quotas) and also has delivered to Bath or its counsel a complete and correct list which includes all persons not covered by the contracts so delivered whose present base compensation or retirement payments from Congoleum or its subsidiaries is at an annual rate of \$25,000 or more (excluding salesmen, sales managers and manufacturers' representatives whose compensation is a commission based on volume of sales or includes a bonus for complying with pre-established quotas), naming each such person and specifying his rate of base compensation and position. Congoleum will give prompt written notice to Bath of any increase, prior to the Effective Time, in the rate of base compensation payable to any person referred to in the preceding sentence or of any increase in the base compensation of any other employee which results in his receiving base compensation at an annual rate of \$25,000 or more. Any such increase will only be given in the ordinary course of business.

(q) Congoleum has delivered to Bath or its counsel a complete and correct list of all collective bargaining contracts of Congoleum and its subsidiaries. Except as described in letters or memoranda heretofore furnished to Bath or its counsel, there are no disputes or controversies with any union (other than routine grievances), or any known threats of strikes or work stoppages, or any extraordinary payments due under contract of collective bargaining with any union.

(r) Since December 31, 1967, Congoleum and its then subsidiaries have not, other than as a part of the Kinder acquisition referred to in Section (c) of this Article VI, (i) issued any stock, bonds or other corporate securities except upon the exercise of employee stock options; (ii) incurred any obligation or liability (absolute or contingent) except current liabilities incurred, obligations under contracts entered into in the ordinary course of business and obligations pursuant to modifications of the employment agreements with nine key employees as heretofore disclosed to Bath; (iii) discharged or satisfied any lien or encumbrance or paid any obligation or liability (absolute or contingent) other than current liabilities shown on the balance sheet as of December 31, 1967 and current liabilities incurred since that date in the ordinary course of business; (iv) declared any dividend or made any payment or distribution to stockholders (except regular quarterly dividends of \$.20 per share on Congoleum Common Stock) or purchased or redeemed any shares of Congoleum Common Stock; (v) mortgaged, pledged, subjected to lien, charge or other encumbrance, any of their assets; (vi) sold or transferred any of their tangible assets or cancelled any of their debts or claims except in the ordinary course of business; (vii) sold, assigned or transferred any patents, trademarks, trade names, copyrights or other intangible assets; (viii) suffered any extraordinary losses or waived any rights of substantial value; or (ix) entered into any transaction other than in the ordinary course of business, other than this Agreement.

(s) There is no investigation by any governmental agency, or action, suit, proceeding or claim, pending against or, to the knowledge of Congoleum, threatened against or adversely affecting Congoleum or any Congoleum subsidiary, or the assets, business or good will of Congoleum or any Congoleum subsidiary, which might have a material adverse effect on the financial condition or business of Congoleum and its subsidiaries taken as a whole; and Congoleum knows of no basis or grounds for any such investigation, action, suit, proceeding or claim.

(t) Neither this Agreement nor any statement, list or certificate furnished or to be furnished to Bath pursuant hereto or in connection with the transaction contemplated hereby contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary in order to make the statements contained therein not misleading. There is no fact which materially adversely affects or in the future may materially adversely affect the business or condition (financial or otherwise) of Congoleum or its subsidiaries or any of their respective properties or assets which has not been set forth herein or in any statement, list or certificate furnished to Bath.

ARTICLE VII

REPRESENTATIONS AND WARRANTIES OF BATH

Bath represents and warrants as follows:

(a) Bath and each of its subsidiaries (i) is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is incorporated; (ii) is duly qualified to do business in and is in good standing in all jurisdictions in which its current business operations require qualification under applicable law; (iii) has the corporate power and authority to own or lease its properties and to carry on its business as now being conducted; and (iv) subject to the approval and adoption by the holders of Bath Common Stock contemplated hereby, has full corporate power and authority to carry out the transaction contemplated hereby.

(b) The execution and delivery of this Agreement does not, and, subject to the approval and adoption by the holders of Bath Common Stock contemplated hereby and any approvals required under agreements pursuant to which Bath has borrowed money or obtained credit or extensions

thereof, the consummation of the transaction contemplated hereby will not, violate any provision of Bath's Certificate of Incorporation or By-Laws, or any provision of, or result in the acceleration of any obligation under, any mortgage, lien, lease, agreement, instrument, court order, arbitration award, judgment or decree to which Bath or any of its subsidiaries is a party or by which any of them is bound and will not violate any other restriction of any kind or character to which it or any of them is subject, excluding, in all cases referred to in this sentence, any violation or acceleration which would not have a material adverse effect upon the financial condition or business of Bath and its subsidiaries taken as a whole. Bath has delivered to Congoleum true and correct copies of its Certificate of Incorporation, By-Laws and agreements pursuant to which it has borrowed or is entitled to borrow money.

(c) The authorized capital stock of Bath consists of 1,000,000 shares of No Par Preferred Stock, none of which has been issued, and 5,000,000 shares, par value \$1 per share, of Common Stock of which, as of the close of business on May 31, 1968, 1,045,455 shares were validly issued and outstanding fully paid and non-assessable and no shares were held in its treasury. On the same date 244,360 shares of such Common Stock were reserved for issuance on the exercise of Stock Purchase Warrants, a copy of the form of which has been furnished to Congoleum. There is no existing option, warrant, call or commitment of any character for the issuance or sale by Bath of its authorized and unissued capital stock or treasury stock, other than as referred to above, and other than upon adoption of certain employee stock option and bonus plans described in Article XIII below. Bath has good and marketable title to all shares of stock of its subsidiaries, free and clear of any mortgage, pledge, lien, charge or encumbrance, and all such shares are validly issued, fully paid and non-assessable.

(d) Bath has delivered to Congoleum copies of its annual reports for the fiscal years ending December 31, 1963, through December 31, 1967, each of which contains a consolidated balance sheet of Bath (or its predecessor corporation) and its subsidiary companies and a statement of consolidated income and earned surplus for such fiscal years, all certified by Arthur Andersen & Co. All of such balance sheets and statements of consolidated income and earned surplus have been prepared in accordance with generally accepted accounting principles consistently followed throughout the periods indicated, and fairly present the financial condition of Bath at the respective dates indicated and the results of its operations for the respective periods indicated.

(e) Except as set forth in Sections (c) and (d) above, there are no liabilities of Bath or its subsidiaries (including liabilities arising from Government contract renegotiation), whether absolute, accrued, contingent, or otherwise, of which it has or reasonably should have knowledge other than (i) liabilities disclosed or adequately provided for in said balance sheet as of December 31, 1967; (ii) liabilities incurred in the ordinary course of business since December 31, 1967; (iii) indebtedness not exceeding \$20,000,000 incurred pursuant to Bath's Agreement dated February 28, 1968, with Manufacturers Hanover Trust Company, Wells Fargo Bank and First Wisconsin National Bank of Milwaukee and (iv) indebtedness of \$12,218,000 incurred by the issuance of 7½% Subordinated Debentures pursuant to Debenture Purchase Agreements dated in 1968;

(f) Neither Bath nor any Bath subsidiary, nor, to the knowledge of Bath, any other party thereto, has breached any material provision of, or is in default in any material respect under the terms of, any contract, agreement, plan, lease or license, a breach of which, or a default under which, would have a material adverse effect upon the financial condition or business of Bath and its subsidiaries taken as a whole.

(g) Since December 31, 1967, there has not been any material adverse change in the financial condition or business of Bath and its subsidiaries taken as a whole.

(h) Bath and its subsidiaries have good and marketable title to all of their properties and assets, real and personal, including without limitation those reflected on the said balance sheet as of December 31, 1967, and the plants or structures thereon and the equipment therein are in good operating condition and repair; such properties and assets are not subject to any mortgage, pledge, lien, conditional sales agreement, security agreement or interest, encumbrance or charge, except (i) liens of cur-

rent state and local property taxes not delinquent or subject to penalty; (ii) minor encumbrances of title or imperfections, if any, which are not substantial in amount and which do not materially detract from the value of the properties and assets subject thereto or materially impair the operations of Bath and its subsidiaries; and (iii) zoning ordinances, and other governmental rules and regulations, if any, none of which is violated by existing buildings and present use in such manner as to materially adversely affect such present use by Bath and its subsidiaries.

(i) The amount set up as provision for taxes on said balance sheet as of December 31, 1967, is substantially sufficient for the payment of all accrued and unpaid federal, state, county and local taxes payable by Bath and its subsidiaries, whether or not disputed, for the year ended December 31, 1967, and for all of its fiscal years prior thereto. The federal income tax returns of Bath and its subsidiaries have been examined by the Internal Revenue Service for all past fiscal years through the fiscal year ended December 31, 1964, and all deficiencies proposed as a result of such examinations have been paid or settled.

(j) The net amount (after provision for doubtful accounts) of the accounts and notes receivable of Bath and its subsidiaries as shown on said balance sheet as of December 31, 1967, are reasonable estimates of collectible amounts, expenditures to perform shipbuilding contracts plus estimated profits and less estimated losses recorded thereon, net of progress billings, are reasonable estimates of amounts realizable, and inventories shown on said balance sheet and thereafter acquired to the Effective Time are, and at the Effective Time (to the extent not disposed of in the ordinary course of business) will be, good, usable and saleable as current inventories in the ordinary course of the business of Bath and its subsidiaries.

(k) Bath has delivered to Congoleum or its counsel a complete and correct list of all material contracts to which Bath and its subsidiaries are a party, whether written or oral, including all collective bargaining contracts of Bath and its subsidiaries, but not including purchase orders or sales contracts involving in any case less than \$1,000,000. Except as described in letters or memoranda heretofore furnished to Congoleum or its counsel, there are no disputes or controversies with any union (other than routine grievances), or any known threats of strikes or work stoppages, or any extraordinary payments due under contract of collective bargaining with any union.

(l) Since December 31, 1967, Bath and its subsidiaries have not (i) issued any stock, bonds or other corporate securities or incurred any obligation or liability (absolute or contingent) except current liabilities incurred, obligations under contracts entered into in the ordinary course of business, except as a result of the arrangements referred to in Sections (c) and (e) of this Article VII and except pursuant to stock option and bonus plans described in Article XIII; (ii) discharged or satisfied any lien or encumbrance or paid any obligation or liability (absolute or contingent) other than current liabilities shown on its balance sheet as of December 31, 1967, and current liabilities incurred since that date in the ordinary course of business; (iii) declared any dividend or made any payment or distribution to its stockholders or purchased or redeemed any shares of Bath Common Stock; (iv) mortgaged, pledged, subjected to lien, charge or other encumbrances any of their assets; (v) sold or transferred any of their tangible assets or cancelled any of their debts or claims except in the ordinary course of business; (vi) sold, assigned or transferred any patents, trademarks, trade names, copyrights or other intangible assets; (vii) suffered any extraordinary losses or waived any rights of substantial value; or (viii) entered into any transaction other than in the ordinary course of business other than this Agreement.

(m) As of the date of this Agreement Bath is the holder of record of 1,082,438 shares of Congoleum Common Stock. Bath has not purchased any Bath Common Stock in the open market since January 1, 1968, directly or indirectly, and on the basis of reports obtained by Bath from its officers and directors, such persons or affiliates or associates of such persons (as those terms are defined in Rule 12(b)-2 of the Regulations issued under the Securities and Exchange Act of 1934) have not purchased in the aggregate such amounts of Bath Common Stock as to have any significant effect on the market price of such stock at any time after January 1, 1968.

(n) There is no investigation by a governmental agency or any action, proceeding or claim pending against or, to the knowledge of Bath, threatened against or adversely affecting Bath or any of its subsidiaries or the assets, business or good will of Bath or any of its subsidiaries which might have a material adverse effect on the financial condition or business of Bath and its subsidiaries as a whole, and Bath knows of no basis or grounds for any such investigation, action, suit, proceeding or claim.

(o) The shares of Series A Stock, when issued as provided in this Agreement, and shares of Bath Common Stock, when issued upon conversion of the Series A Stock, will be validly issued and outstanding, fully paid and non-assessable and listed on the New York Stock Exchange.

(p) Neither this Agreement nor any statement, list or certificate furnished or to be furnished to Congoleum pursuant hereto or in connection with the transaction contemplated hereby contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary in order to make the statement contained therein not misleading. There is no fact which materially adversely affects or in the future may materially affect the business or condition (financial or otherwise) of Bath or its subsidiaries or any of their respective properties or assets which has not been set forth herein or in a statement, list or certificate furnished to Congoleum.

ARTICLE VIII

COVENANTS OF CONGOLEUM

(a) From and after the date of this Agreement and until the Effective Time, except with the prior written approval of Bath, neither Congoleum nor any Congoleum subsidiary will:

(i) issue, sell, purchase or redeem any Congoleum Common Stock or the shares of any Congoleum subsidiary, except Congoleum Common Stock sold upon the exercise of Congoleum employee stock options; subdivide or in any way reclassify any of its capital stock; declare or make any payment or distribution to its stockholders except regular quarterly dividends of \$.20 per share on the outstanding Congoleum Common Stock; or grant any option or make any commitment relating to its authorized or issued capital stock; or

(ii) create or incur any obligation for borrowed money; or

(iii) undertake or approve any new capital project except in the ordinary course of business; or

(iv) amend or commit itself to amend its Certificate of Incorporation or By-laws; or

(v) make any changes in its Stock Option Plans or its Incentive Compensation Plan except as contemplated by Article XII.

(b) From and after the date of this Agreement and until the Effective Time, Congoleum and each Congoleum subsidiary will:

(i) continue to conduct its business in its usual manner;

(ii) use its best efforts to preserve its business organization intact and to retain the services of its officers and employees; and

(iii) give Bath's representatives full access, during normal business hours and upon reasonable notice, to all of Congoleum's and each of Congoleum's subsidiaries' assets, properties, books, records, agreements and commitments, and furnish Bath's representatives during such periods with all such information concerning Congoleum's and each of Congoleum's subsidiaries' affairs as Bath may reasonably request; provided, however, that any furnishing of such information to Bath or any investigation by Bath shall not affect Bath's right to rely on the representations and warranties made by Congoleum in this Agreement, and provided further, that Bath will hold in strict confidence all documents and information concerning Congoleum and Congoleum's subsidiaries so furnished.

(c) Congoleum will furnish Bath all the information concerning Congoleum required for inclusion in a Bath proxy statement pursuant to Regulation 14A under the Securities Exchange Act of 1934 and in a listing application to be filed with the New York Stock Exchange respecting the shares of Series A Stock (and Common Stock issuable upon conversion thereof) to be issued pursuant to this Agreement, or required for any other application or statement made by Bath to any governmental body in connection with the transaction contemplated in this Agreement, and Congoleum represents that all information furnished to Bath for each such application or statement shall be true and correct in all material respects without omission of any material fact required to be stated to make the information not misleading.

(d) Congoleum will take all necessary corporate and other action, and use its best efforts to obtain all consents, approvals and amendments of agreements required of it, to carry out the transaction contemplated in this Agreement and to satisfy the conditions specified in Article XI hereof.

ARTICLE IX

COVENANTS OF BATH

(a) From and after the date of this Agreement and until the Effective Time, except with the prior written approval of Congoleum, neither Bath nor any Bath subsidiary will:

(i) issue, sell, purchase or redeem any shares of Bath capital stock or the shares of capital stock of any Bath subsidiary, except for (A) transfers among Bath and its subsidiaries, (B) sales of Bath Common Stock upon the exercise of the Bath Stock Purchase Warrants referred to in Article VII, Section (c); (C) issuance of not exceeding 50,000 shares of Bath Common Stock pursuant to an employee stock bonus plan approved by shareholders of Bath; subdivide or in any way reclassify or declare or pay a stock dividend on any of its capital stock; or grant any option or make any commitment relating to its authorized or issued capital stock except for options to purchase not exceeding 50,000 shares of Bath Common Stock granted pursuant to an employee qualified stock option plan approved by shareholders of Bath; or

(ii) create or incur any obligations for borrowed money, except to refund outstanding indebtedness and pursuant to its present lines of credit not exceeding \$11,000,000; or

(iii) amend or commit itself to amend its Certificate of Incorporation or By-Laws;

(b) From and after the date of this Agreement and until the Effective Time, Bath and each Bath subsidiary will:

(i) continue to conduct its business in its usual manner;

(ii) use its best efforts to preserve its business organization intact and to retain the services of its officers and employees; and

(iii) give Congoleum's representatives full access, during normal business hours and upon reasonable notice, to all of Bath's and each of Bath's subsidiaries' assets, properties, books, records, agreements and commitments and furnish Congoleum's representatives during such periods with all such information concerning Bath's and each of Bath's subsidiaries' affairs as Congoleum may reasonably request except to the extent such information is classified; provided, however, that any furnishing of such information to Congoleum or any investigation by Congoleum shall not affect Congoleum's right to rely on the representations and warranties made by Bath in this Agreement, and provided further, that Congoleum will hold in strict confidence all documents and information concerning Bath and Bath's subsidiaries so furnished.

(c) Bath will file an application for the listing on the New York Stock Exchange, subject to official notice of issuance, of the Series A Stock to be issued pursuant to this Agreement and the Common Stock to be issued upon conversion of shares of the Series A Stock.

(d) Bath will furnish Congoleum all the information concerning Bath required for inclusion in a Congoleum proxy statement pursuant to Regulation 14A under the Securities Exchange Act of 1934, or required for any other statement or application made by Congoleum to any governmental body in connection with the transaction contemplated in this Agreement, and Bath represents that all information furnished to Congoleum for each such statement or application shall be true and correct in all material respects without omission of any material fact required to be stated to make the information not misleading.

(e) Bath will take all necessary corporate and other action, and use its best efforts to obtain all consents, approvals and amendments of agreements required of it, to carry out the transaction contemplated in this Agreement and to satisfy the conditions specified in Article X hereof.

(f) Congoleum and Bath shall, before and after the Effective Time, take such action as may be necessary or appropriate (including adoption of amendments) in the opinion of Bath to cause all of the rights (including authority to amend or terminate) duties and obligations of Congoleum in the Pension, Profit-sharing and Retirement plans of Congoleum and its subsidiaries (and related trusts and annuity contracts), for the benefit of the employees of Congoleum and its subsidiaries to be assigned to and assumed by Bath or any other corporation designated by Bath prior to the Effective Time.

ARTICLE X

CONDITIONS PRECEDENT TO CONGOLEUM'S OBLIGATIONS

The obligations of Congoleum under this Agreement are subject to the satisfaction of the conditions set out below at or before the Effective Time; provided, however, that the Board of Directors of Congoleum may waive any of such conditions except those in Sections (a) and (d):

(a) This Agreement shall have been approved and adopted by the holders of not less than two-thirds each of the outstanding shares of Congoleum Common Stock and of Bath Common Stock, and the resolution contained in the Certificate of Designation constituting Exhibit 2 hereto shall have been approved and adopted by the Board of Directors of Bath at a meeting held as soon as practicable after the holders of Bath Common Stock have approved this Agreement, with figures included in such Certificate in accordance with the footnotes to Exhibit 2 and related Exhibit 2-a.

(b) No action or proceeding shall have been instituted or threatened against Bath or any Bath subsidiary or against Congoleum or any Congoleum subsidiary which materially and adversely affects the financial condition or business of Bath and its subsidiaries taken as a whole or challenges or seeks to enjoin the merger or the voting by stockholders upon the merger.

(c) Congoleum shall have received an opinion of Bath legal counsel, dated the Effective Time, to the effect that: (i) the corporate existence, good standing and the corporate power and authority of Bath are as represented and warranted in Article VII, Section (a) hereof; (ii) the consummation of the transaction contemplated in this Agreement will not violate any provision of Bath's Certificate of Incorporation or By-Laws, or, to the knowledge of said counsel, any provision of, or result in the acceleration of any obligation under, any mortgage, lien, lease, agreement, instrument, order, arbitration award, judgment or decree to which Bath or any of its subsidiaries is a party or by which it or any of them is, or upon effectiveness of the merger will be, bound, and will not violate any other restriction of any kind or character to which it or any of them is, or upon effectiveness of the merger will be, subject, which, if violated or accelerated would materially and adversely affect the financial condition or business of Bath and its subsidiaries taken as a whole; (iii) all corporate and other action required to be taken by and on the part of Bath and its stockholders to authorize Bath to enter into and perform its obligations under this Agreement has been duly and properly taken and this Agreement constitutes a valid agreement binding in accordance with its terms; (iv) upon effectiveness of the merger the shares of Series A Stock required to be issued pursuant to this Agreement, and the shares of Common Stock to be issued upon conversion of the Series A Stock when issued in accordance with the terms of the Series A Stock, will be validly issued, fully paid

and non-assessable; (v) said counsel does not know of any action or proceeding, pending or threatened, which may materially and adversely affect the financial condition or business of Bath and its subsidiaries taken as a whole or which challenges the merger or seeks to enjoin the merger or the voting by stockholders upon the merger; and (vi) the proxy statements of Bath and Congoleum used in connection with the merger, insofar as they describe matters related to Bath (other than financial statements as to which such counsel need express no opinion), to the best of the knowledge of such counsel, are not false or misleading with respect to any material fact and do not omit to state any material fact necessary to make the statements therein not misleading.

(d) A ruling or rulings shall have been received from the Internal Revenue Service, in form and content satisfactory to counsel for Congoleum, substantially to the effect that (i) the proposed merger of Congoleum into Bath, if consummated in the manner set forth in this Agreement, will constitute a statutory merger and tax-free reorganization under Section 368(a)(1)(A) of the Internal Revenue Code; (ii) under Section 354(a)(1) of the Internal Revenue Code, no gain or loss will be recognized by any holder of Congoleum Common Stock who exchanges such shares for Series A Stock pursuant to this Agreement; (iii) the basis to each stockholder of Congoleum of the shares of Series A Stock received by such stockholder pursuant to this Agreement will be the same as the cost or other basis of such stockholder's Congoleum Common Stock surrendered in exchange therefor under Section 358(a)(1) of the Internal Revenue Code; (iv) the holding period of the Series A Stock received by a holder of Congoleum Common Stock pursuant to this Agreement will include the period during which such holder held the shares of Congoleum Common Stock which are surrendered in exchange for such Series A Stock under Section 1223 of the Internal Revenue Code; (v) the shares of Series A Stock received by stockholders of Congoleum pursuant to this Agreement will not constitute Section 306 stock within the meaning of Section 306(e) of the Internal Revenue Code, or, if they do under Section 306(b)(4) of the Internal Revenue Code, Section 306(a) of the Internal Revenue Code will not be applicable to any sale, exchange or other disposition thereof by such stockholders of Congoleum other than by redemption or in anticipation of redemption; (vi) no gain or loss will be recognized by Congoleum or Bath as a result of the merger contemplated by this Agreement; and (vii) the basis to Bath of the assets of Congoleum acquired pursuant to this Agreement will be the same as the cost or other basis of such assets in the hands of Congoleum immediately prior to the Effective Time.

(e) All of the terms and conditions of this Agreement to be complied with and performed by Bath at or before the Effective Time shall have been complied with and performed in all material respects, and the representations and warranties made by Bath in this Agreement shall, except for changes contemplated hereby, be correct in all material respects, at and as of the Effective Time, with the same force and effect as though such representations and warranties had been made at and as of the Effective Time. Bath shall have delivered to Congoleum a certificate to such effect, dated the Effective Time and signed by the President or a Vice President of Bath.

(f) The shares of Series A Stock to be issued pursuant to this Agreement and the shares of Common Stock to be issued upon conversion thereof shall have been duly listed, subject to official notice of issuance, on the New York Stock Exchange.

(g) Neither Bath nor any of its officers or directors, directly or indirectly, nor any of their associates or affiliates (as those terms are defined in Rule 12(b)-2 of the Regulations issued under the Securities and Exchange Act of 1934), shall have purchased in the aggregate such amount of Bath Common Stock in the period from January 1, 1968 to the Effective Time as to have any significant effect on the market price of such stock during such period.

(h) Congoleum shall have received a letter from Arthur Andersen & Co., Bath's independent accountants, dated the Effective Time, confirming that they are independent public accountants as required by the Securities Exchange Act of 1934, as amended, and the applicable published rules and regulations thereunder; stating in effect (i) that, in their opinion, the financial statements of Bath examined by them and included in the Bath and Congoleum proxy statements used in connection with the meetings of stockholders contemplated hereby comply as to form in all material respects with the applicable accounting requirements of the said Act and the published rules and regulations thereunder; (ii) that, on the basis of a reading of the interim unaudited financial statements of Bath in-

cluded in such proxy statement and of the latest available interim unaudited financial statements prepared by Bath, consultations with officers of Bath responsible for financial and accounting matters, reading the minutes of meetings of the stockholders and the Board of Directors of Bath, and other specified procedures, nothing has come to their attention which would cause them to believe (A) the interim unaudited financial statements of Bath included in the proxy statement have not been prepared on a basis substantially consistent with the audited financial statements therein, or (B) that, during the period from the date of such interim financial statements to a date not more than five days prior to the Effective Time, there was any change in the capital stock or funded debt of Bath and its consolidated subsidiaries or any material adverse change in the consolidated financial position or consolidated results of operations, in each case from that set forth in the latest financial statement, in the proxy statement, except in all instances as set forth in or contemplated by the proxy statement or as occasioned by the declaration or payment of dividends. The terms "financial position" and "results of operations" shall be used in such letter in their conventional accounting sense; accordingly, they shall relate to the financial statements as a whole and have the same meaning when used in such letter as in the report of Arthur Andersen & Co. contained in such proxy statements.

ARTICLE XI

CONDITIONS PRECEDENT TO BATH'S OBLIGATIONS

The obligations of Bath under this Agreement are subject to the satisfaction of the conditions set out below at or before the Effective Time; provided, however, that the Board of Directors of Bath may waive any of such conditions except those in Section (a):

(a) This Agreement shall have been approved and adopted by the holders of not less than two-thirds of the outstanding shares of Congoleum Common Stock and of Bath Common Stock.

(b) No action or proceeding shall have been instituted or threatened against Congoleum or any Congoleum subsidiary which materially and adversely affects the financial condition or business of Congoleum and its subsidiaries as a whole or challenges or seeks to enjoin the merger or the voting by stockholders upon the merger.

(c) Bath shall have received an opinion of Congoleum legal counsel, dated the Effective Time, to the effect that: (i) the corporate existence, good standing and the corporate power and authority of Congoleum are as represented and warranted in Article VI, Section (a) hereof; (ii) the consummation of the transaction contemplated in this Agreement will not violate any provision of Congoleum's Certificate of Incorporation or By-Laws, or, to the knowledge of said counsel, any provision of, or result in the acceleration of any obligation under, any mortgage, lien, lease, agreement, instrument, order, arbitration award, judgment or decree to which Congoleum or any of its subsidiaries is a party or by which it or any of them is bound and will not violate any other restriction of any kind or character to which it or any of them is subject, which, if violated or accelerated, would materially and adversely affect the financial condition or business of Congoleum and its subsidiaries taken as a whole; (iii) all corporate and other action required to be taken by and on the part of Congoleum and its stockholders to authorize Congoleum to enter into and perform its obligations under this Agreement has been duly and properly taken and this Agreement constitutes a valid agreement binding in accordance with its terms; (iv) said counsel does not know of any action or proceeding, pending or threatened, which materially and adversely affects the financial condition or business of Congoleum and its subsidiaries taken as a whole or which challenges the merger or seeks to enjoin the merger or the voting by stockholders upon the merger; (v) the proxy statements of Bath and Congoleum used in connection with the merger, insofar as they describe matters related to Congoleum (other than financial statements as to which such counsel need express no opinion), to the best of the knowledge of such counsel, are not false or misleading with respect to any material fact and do not omit to state any material fact necessary to make the statements therein not misleading.

(d) All of the terms and conditions of this Agreement to be complied with and performed by Congoleum on or before the Effective Time shall have been complied with and performed in all material respects, and the representations and warranties made by Congoleum in this Agreement shall, except for changes contemplated hereby, be correct in all material respects, at and as of the Effective

Time, with the same force and effect as though such representations and warranties had been made at and as of the Effective Time. Congoleum shall have delivered to Bath a certificate to such effect, dated the Effective Time and signed by the President or a Vice President of Congoleum.

(c) Bath shall have received a letter from Arthur Andersen & Co., Congoleum's independent accountants, dated the Effective Time, confirming that they are independent public accountants as required by the Securities Exchange Act of 1934, as amended, and the applicable published rules and regulations thereunder, stating in effect (i) that, in their opinion, the financial statements of Congoleum examined by them and included in the Bath and Congoleum proxy statements used in connection with the meetings of stockholders contemplated hereby comply as to form in all material respects with the applicable accounting requirements of the said Act and the published rules and regulations thereunder, (ii) that, on the basis of a reading of the interim unaudited financial statements of Congoleum included in such proxy statement, and of the latest available interim unaudited financial statements prepared by Congoleum, consultation with officers of Congoleum responsible for financial and accounting matters, reading the minutes of meetings of the stockholders and Board of Directors of Congoleum, and other specified procedures nothing has come to their attention which would cause them to believe (A) the interim unaudited financial statements of Congoleum included in the proxy statement have not been prepared on a basis substantially consistent with the audited financial statements therein or (B) that, during the period from the date of such interim financial statements to a date not more than five days prior to the Effective Time, there was any change in the capital stock or funded debt of Congoleum or any material adverse change in the consolidated financial position or consolidated results of operations, in each case from that set forth in the latest financial statements in the proxy statement, except in all instances as set forth in or contemplated by the proxy statement or as occasioned by the declaration or payment of dividends. The terms "financial position" and "results of operations" shall be used in such letter in their conventional accounting sense; accordingly, they shall relate to the financial statements as a whole and have the same meaning when used in such letter as in the report of Arthur Andersen & Co. contained in such proxy statements.

ARTICLE XII

CHANGES IN CONGOLEUM'S INCENTIVE COMPENSATION PLAN

Congoleum's Incentive Compensation Plan shall be continued for the calendar year 1968 and the entire amount credited to the Incentive Compensation Reserve for such year shall be paid out, in February, 1969, to such employees and in such proportion as the Board of Directors shall determine.

Net Earnings shall be defined to mean the sum of (a) the consolidated net earnings of Congoleum-Nairn Inc. and its subsidiaries for the period from January 1, 1968 to the effective date of the merger of Congoleum-Nairn Inc. into Bath Industries, Inc. and (b) the consolidated net earnings of the wholly owned subsidiary of Bath Industries, Inc. to which the business theretofore conducted by Congoleum-Nairn Inc. is transferred and the corporations which were subsidiaries immediately prior to such merger for the period from the effective date of such merger to December 31, 1968, earnings for such period shall not be reduced by any allocation of charges by Bath Industries Inc. or other charges which Congoleum-Nairn, Inc. would not have incurred if it were not for the merger but such earnings shall be reduced by any fees paid outside consultants by Congoleum-Nairn, Inc. in connection with the merger.

After calendar year 1968 the Congoleum Incentive Compensation Plan will be continued, subject to change at the discretion of the directors of Bath.

ARTICLE XIII

EMPLOYEE OPTION AND BONUS PLANS

It is understood that Bath proposes to adopt and have its shareholders approve an employee's stock option plan and a stock bonus plan. The maximum number of shares which may be issued under each plan is 50,000. Anything in the Agreement to the contrary notwithstanding adoption of such plans, and the grant of options and issuance of shares pursuant thereto shall not be deemed to constitute a violation by Bath of any of its representations, warranties or covenants herein.

ARTICLE XIV

STOCKHOLDER APPROVAL; EFFECTIVE TIME

(a) Separate meetings of the stockholders of Bath and Congoleum, respectively, shall be called to be held in accordance with Delaware and New York law on or before September 30, 1968 (or such later date as may be agreed upon between Bath and Congoleum), after at least 20 days' prior written notice of the time, place and object thereof to the stockholders of the respective corporations.

(b) If this Agreement is approved and adopted at such meetings, upon submission thereof as aforesaid, in accordance with Delaware and New York law by the requisite statutory votes of the stockholders of Bath and Congoleum, and if the merger is not thereafter terminated as permitted by Article XV hereof, then on the later of September 30, 1968, or the second business day following the date on which the latest of the following falls: (i) the date on which this Agreement shall have been so approved and adopted by the stockholders of Bath; (ii) the date on which this Agreement shall have been so approved and adopted by the stockholders of Congoleum; (iii) the date on which the ruling or rulings from the Internal Revenue Service referred to in Section (d) of Article X are received, and (iv) the date on which the Board of Directors of Bath shall have approved and adopted the resolution contained in the Certificate of Designation constituting Exhibit 2 hereof, completed as provided in the footnotes to Exhibit 2 and related Exhibit 2-a, this Agreement and certificates of its adoption, duly acknowledged, together with a Certificate of Designation in the form of Exhibit 2 completed as provided in such Exhibit, shall be filed in the Office of the Secretary of State of the State of Delaware and, if required by law, recorded in accordance with the laws of said State, and a Certificate of Merger of Congoleum into Bath, duly signed and verified, shall be delivered to the Department of State of the State of New York in accordance with the laws of said State; provided, however, that such filings and deliveries may be effected after the close of business on the New York Stock Exchange on such day earlier or later than the day provided for above in this Section (b) as may be mutually agreed upon by the Boards of Directors of Bath and Congoleum.

(c) The merger of Congoleum into Bath shall be effected on, and the Effective Time shall be, the later of midnight on September 30, 1968, or on the date of said filing in the Office of the Secretary of State of the State of Delaware and said delivery to the Department of State of the State of New York.

ARTICLE XV

TERMINATION

(a) This Agreement may be terminated and the merger abandoned by the mutual consent of the Boards of Directors of Bath and Congoleum at any time before or after approval and adoption thereof by the stockholders of Bath or Congoleum, but not later than the first to occur of (i) the filing of the Certificate of Merger of Congoleum into Bath with the Department of State of the State of New York and (ii) the filing of the Plan and Agreement of Merger in the office of the Secretary of State of the State of Delaware. JH

(b) If the merger is not consummated prior to December 31, 1968, this Agreement shall thereupon terminate.

ARTICLE XVI

MISCELLANEOUS

(a) In the event this Agreement is terminated as provided in Article XV, neither Bath nor Congoleum shall have any liability to the other for costs, expenses, loss of anticipated profits or otherwise. Whether the merger contemplated hereby is consummated or is terminated as provided in Article XV hereof, neither Bath nor Congoleum nor any director, officer or employee of Bath or Congoleum acting in good faith shall have any liability for any action or failure to act in connection with this Agreement and the transaction contemplated hereby, and the sole remedy of Bath or Congoleum, as the case may be, for the breach by the other of any representation, warranty or covenant, or the failure by the other to satisfy any of the conditions to be satisfied prior to consummation of the merger contemplated hereby, shall be to terminate this Agreement as permitted by Article XV hereof.

(b) Bath and Congoleum agree that the representations and warranties contained in this Agreement or in any instrument delivered hereunder shall expire and be terminated and extinguished at the Effective Time, but it is agreed that Bath shall continue to be obligated to perform all covenants of Bath which are by the terms hereof to be performed after the Effective Time,

(c) Each of the parties represents and warrants that no broker or finder has acted for it in connection with this Agreement or the transaction contemplated in this Agreement and no broker or finder is entitled to any brokerage or finder's fee or other commission based on agreements, arrangements or understandings made by it.

(d) This Agreement may be amended or modified before or after approval and adoption thereof by the stockholders of Bath or Congoleum, but not later than the Effective Time, by the mutual consent of the Boards of Directors of Bath and Congoleum.

(e) Any act or waiver provided for herein which may be taken or given by the Board of Directors of either of the parties hereto may be taken or given instead by a committee of the Board or a designated officer if the Board so authorizes.

(f) Any notice, request, instruction or other document to be given hereunder shall be in writing and delivered personally or sent by certified or registered mail, postage prepaid:

(i) If to Bath, addressed to William D. Kyle, Jr., President, Bath Industries, Inc., P. O. Box 51, Mequon, Wisconsin; with copy to Richard L. Harrington, Foley, Sammond & Lardner, 735 North Water Street, Milwaukee, Wisconsin; or

(ii) If to Congoleum, addressed to M. E. Dowd, Jr., President, Congoleum-Nairn Inc., 195 Belgrove Drive, Kearney, New Jersey.

(g) This instrument contains the entire agreement between the parties hereto with respect to the transaction contemplated in this Agreement.

(h) This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart.

IN WITNESS WHEREOF, each of the parties hereto has executed this Agreement and caused its corporate seal to be affixed the day and year first above written.

BATH INDUSTRIES, INC.

By

James F. Foderian
Vice President

Attest:

[Signature]
Secretary

CONGOLEUM-NAIRN, INC.

By

W. D. Kyle, Jr.
Chairman of the Board

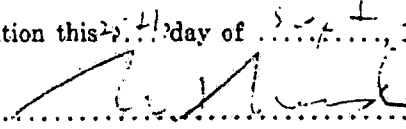
Attest:

Paul M. Jersey
Secretary

CERTIFICATE OF SECRETARY
of
BATH INDUSTRIES, INC.

The undersigned, William F. Mussenden, Secretary of BATH INDUSTRIES, INC., a Delaware corporation, one of the corporations which is a party to the foregoing Plan and Agreement of Merger, on behalf of said corporation, hereby certifies that said Plan and Agreement of Merger was submitted to the stockholders of said corporation at a meeting thereof duly called and held in accordance with the laws of the State of Delaware on Sept. 4, 1968, 1968 and at said meeting more than two-thirds of the outstanding shares of capital stock of said corporation was represented and said Plan and Agreement of Merger was approved and adopted by the votes of stockholders representing more than two-thirds of the outstanding shares of capital stock of said corporation.

WITNESS my hand and the seal of said corporation this 27th day of Sept., 1968.


.....
William F. Mussenden, Secretary

CERTIFICATE OF SECRETARY
of
CONGOLEUM-NAIRN INC.

The undersigned, Ralph M. Jerskey, Secretary of CONGOLEUM-NAIRN INC., a New York corporation, one of the corporations which is a party to the foregoing Plan and Agreement of Merger, on behalf of said corporation, hereby certifies that said Plan and Agreement of Merger was submitted to the stockholders of said corporation at a meeting thereof duly called and held in accordance with the laws of the State of New York on Sept. 25, 1968, and at said meeting more than two-thirds of the outstanding shares of capital stock of said corporation was represented and said Plan and Agreement of Merger was approved and adopted by the votes of stockholders representing more than two-thirds of the outstanding capital stock of said corporation.

WITNESS my hand and the seal of said corporation this 25th day of September, 1968.

..... Ralph M. Jerskey
Ralph M. Jerskey, Secretary

The foregoing Plan and Agreement of Merger having been duly executed by the Vice President of Bath Industries, Inc., Chairman of the Board of Congoleum-Nairn Inc. and by the Secretary of each of the corporations parties thereto, and said corporations having caused their respective corporate seals to be thereunto affixed and the said Plan and Agreement of Merger having been adopted by the stockholders of Bath Industries, Inc., a Delaware corporation, in accordance with the laws of the State of Delaware, and by the stockholders of Congoleum-Nairn, Inc., a New York corporation, in accordance with the laws of the State of New York, and that fact having been certified on such Plan and Agreement of Merger by the Secretary of each corporation, the President and the Secretary of each of said corporations do now sign this Plan and Agreement of Merger under the respective corporate seals of said corporations, by the authority of the directors and stockholders of each, as the act, deed and agreement of each corporation this 25th day of September, 1968.

BATH INDUSTRIES, INC.

By [Signature]

By [Signature]

CONGOLEUM-NAIRN INC.

By M. E. Dawda

By Ralph M. Jerskey

STATE OF *New York* }
COUNTY OF *New York* } ss:

BE IT REMEMBERED that on this *10th* day of *July*, 1968, personally came before me, a notary public in and for the County and State aforesaid: ~~WILLIAM B. KYLE, JR., Chairman of the Board and President~~, and WILLIAM F. MUSSENDEN, Secretary, of BATH INDUSTRIES, INC., a corporation of the State of Delaware, known by me personally to be such, and they duly signed the foregoing Plan and Agreement of Merger before me and severally acknowledged said instrument to be their act and deed and the act and deed of said corporation and that the facts stated therein are true; that the signatures of said officers are in the handwriting of each of said officers; and that the seal affixed to said instrument is the corporate or common seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office the day and year aforesaid.

Eleanor V. Dumei
.....
Notary Public
ELEANOR V. DUMEY
Notary Public, State of New York
No. 24-1040800
Qualified in Kings County
Certificate filed in New York County
Term Expires March 30, 1969

JERSEY
STATE OF New ~~York~~ }
COUNTY OF ~~New York~~ } ss:
Hudson

BE IT REMEMBERED that on this *11th* day of *July*, 1968, personally came before me, a notary public in and for the County and State aforesaid: ~~WILLIAM B. KYLE, JR., Chairman of the Board and President~~, and RALPH M. JERSKEY, Secretary, of CONGOLEUM-NAIRN INC., a corporation of the State of New York, known by me personally to be such and ~~they~~ duly executed the foregoing Plan and Agreement of Merger before me and ~~severally~~ acknowledged said instrument to be ~~their~~ act and deed and the act and deed of said corporation and that the facts stated therein are true; that the signatures of said officers ~~are~~ in the handwriting of ~~each of~~ said officers; and that the seal affixed to said instrument is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office the day and year aforesaid.

Ralph M. Jerskey
.....
Notary Public

ADOLE M. O'CONNOR
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires June 25, 1973

STATE OF NEW YORK)
) SS
COUNTY OF NEW YORK)

Personally came before me this 19th day of August, 1968, WILLIAM D. KYLE, JR., Chairman of the Board of CONGOLEUM-NAIRN INC., a corporation of the State of New York, to me known to be the person who executed the foregoing instrument, and to me known to be such Chairman of the Board of said corporation and acknowledged that he executed the foregoing instrument as such officer as the act and deed of said corporation and that the facts stated therein are true; that the signature of said officer is in the handwriting of said officer; and that the seal affixed to said instrument is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office the day and year aforesaid.

Eleanor V. DumeY
Notary Public

ELEANOR V. DUMEY
Notary Public, State of New York
No. 24-1040800
Qualified in Kings County
Certificate filed in New York County
Term Expires March 30, 1969

[Notarial Seal]

3600900318

CERTIFICATE OF INCORPORATION

OF
RESILCO, INC.

FILED

MAR 31 1983

2:30 PM

[Signature]
NOTARY PUBLIC

FIRST: The name of the Corporation is Resilco, Inc. (hereinafter the "Corporation").

SECOND: The address of the registered office of the Corporation in the State of Delaware is 1209 Orange Street, in the City of Wilmington, County of New Castle. The name of its registered agent at that address is The Corporation Trust Company.

THIRD: The purpose of the Corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of the State of Delaware as set forth in Title 8 of the Delaware Code (the "GCL").

FOURTH: The total number of shares of stock which the Corporation shall have authority to issue is 1000 shares of Common Stock, each having a par value of one penny (\$.01).

FIFTH: The name and mailing address of the Sole Incorporator is as follows:

<u>Name</u>	<u>Mailing Address</u>
Catherine Davis	P.O. Box 636 Wilmington, Delaware 19899

SIXTH: The following provisions are inserted for the management of the business and the conduct of the affairs of the Corporation, and for further definition, limitation and regulation of the powers of the Corporation and of its directors and stockholders:

(1) The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors.

(2) The directors shall have concurrent power with the stockholders to make, alter, amend, change, add to or repeal the By-Laws of the Corporation.

(3) The number of directors of the Corporation shall be as from time to time fixed by, or in the manner provided in, the By-Laws of the Corporation. Election of directors need not be by written ballot unless the By-Laws so provide.

(4) In addition to the powers and authority hereinbefore or by statute expressly conferred upon them, the directors are hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by the Corporation, subject, nevertheless, to the provisions of the GCL, this Certificate of Incorporation, and any By-Laws adopted by the stockholders; provided, however, that no By-Laws hereafter adopted by the stockholders shall invalidate any prior act of the directors which would have been valid if such By-Laws had not been adopted.

SEVENTH: Meetings of stockholders may be held within or without the State of Delaware, as the By-Laws may provide. The books of the Corporation may be kept (subject to any provision contained in the GCL) outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the By-Laws of the Corporation.

EIGHTH: Whenever a compromise or arrangement is proposed between this Corporation and its creditors or any class of them and/or between this Corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of this Corporation or of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for this Corporation under the provisions of Section 291 of the GCL or on the application of trustees in dissolution or of any receiver or receivers appointed for this Corporation under the provisions of Section 279 of the GCL, order

a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this Corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this Corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of this Corporation as a consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of this Corporation, as the case may be, and also on this Corporation.

NINTH: The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

I, THE UNDERSIGNED, being the Sole Incorporator hereinbefore named, for the purpose of forming a corporation pursuant to the GCL, do make this Certificate, hereby declaring and certifying that this is my act and deed and the facts herein stated are true, and accordingly have hereunto set my hand this 31st day of March, 1986.



Catherine Davis
Sole Incorporator

INSTRUMENT OF ASSIGNMENT AND ASSUMPTION

THIS INSTRUMENT OF ASSIGNMENT AND ASSUMPTION made, executed and delivered this 18th of April, 1986, by CONGOLEUM CORPORATION, a Delaware corporation ("Congoleum"), and CONGOLEUM INDUSTRIES, INC., a Delaware corporation ("CII").

Congoleum by this Instrument does hereby transfer, assign, convey and deliver unto CII, its successors and assigns forever, all of the rights, properties, assets, contracts and businesses of every kind, character and description, including, without limitation, the capital stock of each of Kinder Manufacturing Corporation, a Delaware corporation ("Kinder"), Resilco, Inc., a Delaware corporation ("Resilient") and Curtis Industries, Inc., a Delaware corporation ("Curtis"), whether tangible or intangible, whether real, personal, mixed or otherwise, and wheresoever situated, belonging to Congoleum or to which Congoleum may be entitled (except for the Excluded Assets, as hereinafter defined) (the "Transferred Assets") to have and to hold forever. As used in this Instrument, "Excluded Assets" shall mean: (i) the rights, properties, assets and contracts transferred by Congoleum to Kinder under an Instrument of Assignment and Assumption, dated the date hereof between Congoleum and

Kinder; (ii) the rights, properties, assets and contracts transferred by Congoleum to Resilient under an Instrument of Assignment and Assumption dated the date hereof between Congoleum and Resilient; and (iii) the capital stock of each of Bath Iron Works Corporation, a Maine corporation, Congoleum Holdings, Inc., a Delaware corporation, and Sagadahoc Land Holding Company, a Maine corporation. Congoleum hereby authorizes CII to take any appropriate action to protect the right, title and interest hereby conveyed in connection with the Transferred Assets hereby transferred, assigned, conveyed and delivered to CII in the name of Congoleum or CII or any other name (but for the benefit of CII and its successors and assigns) against each and every person or persons whomsoever claiming or asserting any claim against any or all of the same.

Congoleum covenants that it will from time to time at its expense make, execute and deliver, or cause to be made, executed and delivered, such instruments, acts, consents and assurances as CII may reasonably request more effectively to transfer, assign, convey and deliver to, and to vest in, CII all of the Transferred Assets being transferred, assigned, conveyed and delivered hereunder and to put CII in possession and control

of any such property and assets and, in the case of contracts and rights, if any, which cannot be effectively transferred, conveyed or assigned to CII without the consent of third parties not heretofore obtained, to endeavor to obtain such consents promptly, and if any be unobtainable, to use its best efforts to assure to CII the benefits thereof.

In connection with such transfer, assignment, conveyance and delivery of the Transferred Assets, CII by this Instrument hereby undertakes, assumes and agrees that it will perform, pay or discharge (a) all liabilities of Congoleum for interest accrued to the date hereof on the notes issued under the Credit Agreement dated as of May 31, 1984, among Congoleum, several banks party to such agreement (the "Banks") and Manufacturers Hanover Trust Company ("MHTC") as agent for the Banks (as amended, supplemented or otherwise modified, the "Credit Agreement") and on the senior notes and subordinated notes issued under the Note Purchase Agreements dated as of May 31, 1984, between Congoleum and each of the note-holders listed on the signature pages thereto (as amended, supplemented or otherwise modified, the "Note Purchase Agreements"), and (b) all other liabilities and obligations of Congoleum (known or unknown and whether

absolute, accrued, contingent or otherwise) existing as of the date hereof, whether asserted before or after such time, except for the liabilities assumed by Kinder and Resilient, respectively, under Instruments of Assignment and Assumption dated the date hereof, between Congoleum and each of Kinder and Resilient and the liabilities of Congoleum (other than those referred to in clause (a) above) under the Credit Agreement, the notes issued thereunder, the Interest Rate Agreement dated as of June 21, 1984, among Congoleum, the Banks and MHTC as agent for the Banks (as amended, supplemented or otherwise modified, the "Interest Rate Agreement"), the Note Purchase Agreements and the senior notes and subordinated Notes issued thereunder.

The assumption by CII of the liabilities and obligations of Congoleum shall not be construed to defeat, impair or limit in any way any rights or remedies of CII to contest or dispute the validity or amount thereof, provided that CII will indemnify and hold harmless Congoleum from any liability which CII causes to be contested or disputed.

For the consideration aforesaid, CII, for itself and its successors and assigns, has covenanted, and by this Instrument does covenant, with Congoleum, its

successors and assigns, that CII and its successors and assigns, will do, execute and deliver, or will cause to be done, executed and delivered, all such further acts and instruments which Congoleum may reasonably request in order more fully to effectuate the assumption of liabilities provided for in this Instrument.

The parties hereto further covenant and agree that the covenants herein contained shall be binding upon their respective successors and assigns and shall inure to the benefit of their respective successors and assigns.

IN WITNESS WHEREOF, this Instrument has been duly executed and delivered by the duly authorized officers of Congoleum Corporation and Congoleum Industries, Inc. on the date first above written.

CONGOLEUM CORPORATION

By *Terry Morton*
Title *Vice President*

CONGOLEUM INDUSTRIES, INC.

By *Terry Morton*
Title *Vice President*

8601190265

CERTIFICATE OF AMENDMENT
OF
CERTIFICATE OF INCORPORATION

2:25 pm
FILED

APR 20 1968

* * * *

Robert H. Hester
SECRETARY OF STATE

RESILCO, INC., a corporation organized and existing
under and by virtue of the General Corporation Law of the
State of Delaware, (the "Corporation")

DOES HEREBY CERTIFY:

FIRST: That the Amendment to the Certificate of Incorporation of the Corporation to be effected hereby is as follows:

Article FIRST of the Certificate of Incorporation of the Corporation is deleted and the following Article is inserted in its place:

"FIRST: The name of the Corporation is
CONGOLEUM CORPORATION (hereinafter the "Corporation")."

SECOND: That the Board of Directors of RESILCO, INC., by the unanimous written consent of its members in accordance with the provisions of section 141(f) of the General Corporation Law of the State of Delaware, duly adopted resolutions setting forth said amendment, declaring its advisability, and directing that it be submitted for consideration by the stockholders of the Corporation.

THIRD: That thereafter said amendment was approved by written consent of the stockholders of the Corporation in accordance with the provisions of section 228 of the General Corporation Law of the State of Delaware.

FOURTH: That said amendment was duly adopted in accordance with the provisions of section 242 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, RESILCO, INC. has caused this certificate to be signed by Terry L. Morton, its Vice President, and attested by J. Robert O'Brien, its Secretary this 28th day of April, 1986.

RESILCO, INC.

By Terry Morton
Vice President

ATTEST:

J. Robert O'Brien
Secretary

CERTIFICATE OF INCORPORATION
OF
RESILIENT ACQUISITION INCORPORATED

THE UNDERSIGNED, in order to form a corporation for the purpose herein stated, under and pursuant to the provisions of the General Corporation Law of the State of Delaware, hereby certifies as follows:

FIRST: The name of the corporation is RESILIENT ACQUISITION INCORPORATED (hereinafter called the "Corporation").

SECOND: The registered office of the Corporation is to be located at 229 South State Street, in the City of Dover, County of Kent, State of Delaware. The name of its registered agent at such address is United States Corporation Company.

THIRD: The purpose of the Corporation is to engage in any lawful act or activity, without limitation, for which corporations may be organized under the General Corporation Law of Delaware.

FOURTH: The total number of shares of all classes of stock which the Corporation is authorized to issue is One Thousand (1,000) shares, consisting entirely of Common Stock, of the par value of One Dollar (\$1.00) per share.

FIFTH: The name and mailing address of the incorporator is: Nancy Esh, 280 Park Avenue, New York, New York 10017.

SIXTH: The election of directors need not be by written ballot unless the by-laws so provide.

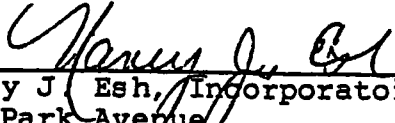
SEVENTH: The Board of Directors of the Corporation is authorized and empowered from time to time in its discretion to make, alter, amend or repeal by-laws of the Corporation, except as such power may be restricted or limited by the General Corporation Law of the State of Delaware.

EIGHTH: Whenever a compromise or arrangement is proposed between this Corporation and its creditors or any class of them and/or between this Corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of this Corporation or of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for this Corporation under the provisions of Section 291 of Title 8 of the Delaware Code or on the application of trustees in dissolution or of any receiver or receivers appointed for this Corporation under the provisions of Section 279 of Title 8 of the Delaware Code order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this Corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this Corporation, as the case may be, agree to any compromise or arrangement and to any

reorganization of this Corporation as consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders of this Corporation as the case may be, and also on this Corporation.

NINTH: The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation in the manner now or hereafter prescribed by law, and all rights and powers conferred herein on stockholders, directors and officers are subject to this reserved power.

IN WITNESS WHEREOF, I have hereunto set my hand the
25th day of June, 1986..



Nancy J. Esh, Incorporator
280 Park Avenue
New York, New York 10017

AGREEMENT AND PLAN OF MERGER

BY AND AMONG

RESILIENT HOLDINGS INCORPORATED,
RESILIENT ACQUISITION INCORPORATED,
CONGOLEUM CORPORATION

AND

CONGOLEUM INDUSTRIES, INC.

Dated as of July 1, 1986

AGREEMENT AND PLAN OF MERGER

AGREEMENT AND PLAN OF MERGER, dated as of July 1, 1986, by and among Resilient Holdings Incorporated, a Delaware corporation (the "Parent"), Resilient Acquisition Incorporated, a Delaware corporation ("Acquisition"), Congoleum Corporation, a Delaware corporation (the "Company"), and Congoleum Industries, Inc., a Delaware corporation and sole stockholder of the Company ("CII"). The Company and Acquisition are sometimes hereinafter referred to as the "Constituent Corporations."

WHEREAS, Acquisition desires to merge (the "Merger") with and into the Company upon the terms and subject to the conditions set forth herein.

~~NOW, THEREFORE,~~ in consideration of the mutual representations, warranties, covenants and agreements contained herein, the parties agree as follows:

ARTICLE I

THE MERGER

1.01. The Merger. Upon the terms and subject to the conditions of this Agreement and in accordance with the General Corporation Law of the State of Delaware, as amended (the "GCL"), as of the Effective Time (as defined in Section 1.02) (a) Acquisition shall be

merged with and into the Company, (b) the separate existence of Acquisition shall thereupon cease and (c) the Company, as the surviving corporation in the Merger (the "Surviving Corporation"), shall continue its corporate existence under the laws of the State of Delaware.

1.02. Effective Time of the Merger. As soon as practicable after the closing of the Merger in accordance with Section 8.04, the Company and Acquisition will cause a Certificate of Merger (the "Certificate of Merger") to be executed, acknowledged and filed with the Secretary of State of the State of Delaware (the "Delaware Secretary") as provided in the GCL, and a copy of the Certificate of Merger, certified by the Delaware Secretary, shall be recorded within 20 days thereafter in ~~the Office of the Recorder of New Castle County in the~~ State of Delaware, all in accordance with the provisions of the GCL. The Merger shall become effective immediately upon the filing of the Certificate of Merger with the Delaware Secretary. The date and time of such filing is herein sometimes referred to as the "Effective Time."

1.03. Effect of the Merger. At the Effective Time, the Surviving Corporation shall thereupon and thereafter possess all of the rights, privileges, immunities, powers, franchises and authority, as well of a

public as of a private nature, and be subject to all of the restrictions, disabilities and duties, of each of the Constituent Corporations; and, all and singular, the rights, privileges, immunities, powers, franchises and authority of each of the Constituent Corporations, and all assets and property of every description, real, personal and mixed, and every interest therein, wherever located, and all debts or other obligations belonging or due to either of the Constituent Corporations on whatever account, as well as stock subscriptions and all other things in action or belonging to each of such Constituent Corporations, shall be vested in the Surviving Corporation; and all property, rights, privileges, immunities, powers, franchises and authority of the Company, and all

and every other interest, shall be thereafter as effectually the property of the Surviving Corporation as they were of the Constituent Corporations, and the title to any real estate or interest therein vested by deed or otherwise in either Constituent Corporation shall not revert or be in any way impaired by reason of the Merger; but all rights of creditors and all liens upon any property of either of the Constituent Corporations shall be preserved unimpaired, and the Surviving Corporation shall be liable for the debts, liabilities, duties and obliga-

tions of each of the Constituent Corporations and any claim existing, or action or proceeding pending, by or against either of the Constituent Corporations may be prosecuted to judgment with right of appeal, as if the Merger had not taken place.

1.04. Certificate of Incorporation. At the Effective Time, the Certificate of Incorporation of the Company, as in effect immediately prior to the Effective Time, shall be amended and restated to read in its entirety substantially the same as the Certificate of Incorporation of Acquisition presently reads and shall be the Certificate of Incorporation of the Surviving Corporation until thereafter amended in accordance with applicable law and such Certificate of Incorporation.

1.05. By-Laws. The By-Laws of Acquisition, as in effect immediately prior to the Effective Time, shall be the By-Laws of the Surviving Corporation until thereafter amended in accordance with applicable law, the Certificate of Incorporation of the Surviving Corporation and such By-Laws.

1.06. Directors. The directors of Acquisition immediately prior to the Effective Time shall be the directors of the Surviving Corporation, to hold office until their respective successors shall be elected and

qualify or as otherwise provided in the By-laws of the Surviving Corporation.

1.07. Officers. The executive officers of Acquisition immediately prior to the Effective Time shall be the executive officers of the Surviving Corporation, to hold office until their respective successors shall be appointed and qualify or as otherwise provided in the By-laws of the Surviving Corporation.

ARTICLE II

PAYMENT FOR AND EXCHANGE OF SHARES; ADDITIONAL ACTION

2.01. Conversion of Shares. At the Effective Time:

(a) (i) Each share of the Company's

Common Stock, par value \$.01 per share (the "Company Common Stock"), which is issued and outstanding immediately prior to the Effective Time, excluding any such share held in the treasury of the Company, shall automatically be cancelled and extinguished and, thereafter, shall represent the right to receive an amount (the "Common Share Amount"), without interest, equal to the Adjusted Purchase Price (as defined in Section 2.01(a)(ii)), divided by the

number of shares of the Company Common Stock issued and outstanding immediately prior to the Effective Time.

(ii) The Adjusted Purchase Price shall equal \$80,000,000 in cash (plus, if the Domco Litigation (as defined in Section 5.12(a)) shall have been settled prior to the Effective Time, an amount equal to fifty percent (50%) of the cost of such settlement, provided that such additional amount shall not exceed \$5,500,000), plus the Working Capital Adjustment and plus (or minus if such amount is a negative number) the Cash Adjustment (each as hereinafter defined). For purposes of calcu-

lating the Adjusted Purchase Price, (A) the Working Capital Adjustment shall equal the amount (which may not be a negative number), if any, by which the working capital of the Company as reflected on the Interim Balance Sheet (as defined in Section 5.10) shall exceed \$45,000,000 and (B) the Cash Adjustment shall equal the amount (which may be a negative number) determined by subtracting the aggregate amount of cash or other assets (not including

the property described in the Disclosure Schedule (as defined in Section 3.01) in reference to Section 3.08) transferred during the period commencing on July 1, 1986 and ending at the Effective Time from the Company or any of the Subsidiaries to CII or any of its subsidiaries (other than the Company or a Subsidiary) from the sum of (y) the aggregate amount of cash or other assets (not including any advances made by CII to the Company in respect of the Domco Litigation) transferred during such period from CII or any of its subsidiaries (other than the Company or a Subsidiary) to the Company or any of the Subsidiaries plus (z) the aggregate

amount of corporate charges (including, without limitation, allocated corporate overhead expense of \$345,000 and charges for items such as insurance, pension costs and audit fees) charged by CII to the Company during such period in accordance with normal past practice as described in a letter previously delivered to the Parent, the amounts of such cash transfers and corporate expenses as of the Effective Time

to be certified by the chief financial officers of CII and the Company.

(iii) Not fewer than five days prior to the Effective Time, CII will deliver, or cause to be delivered, a preliminary estimate of the Cash Adjustment as of the date on which such estimate is so delivered.

(b) Each share of the Company Common Stock held in the treasury of the Company immediately prior to the Effective Time shall automatically be cancelled and retired and cease to exist, and no payment shall be made in respect thereof.

(c) Each outstanding share of Common Stock, \$1.00 par value per share, of Acquisition (the "Acquisition Common Stock") shall be converted into and shall thereafter represent one validly issued, fully paid and nonassessable share of Common Stock of the Surviving Corporation.

2.02. Stock Transfer Books. At the Effective Time, the stock transfer books of the Company shall be closed and there shall be no further registration of transfers of shares of the Company Common Stock on the records of the Company.

2.03. Surrender of Stock Certificate and Payment for Shares. At the Effective Time, the holders of certificates representing shares of the Company Common Stock shall cease to have any rights as stockholders of the Company, except for such rights as they may have pursuant to this Agreement and applicable law. At and after the Effective Time, each holder of a certificate or certificates representing shares of the Company Common Stock shall be entitled, upon surrender of his certificates representing such shares of the Company Common Stock to the Surviving Corporation, to receive in exchange therefor the amount in immediately available funds determined by multiplying the number of shares of the Company Common Stock surrendered by the Common Share

Amount. No interest will be paid or accrued on the cash payable upon the surrender of such certificates. If payment is to be made to a person other than the one in whose name a surrendered certificate is registered, it shall be a condition of payment that the certificate so surrendered be properly endorsed or otherwise in proper form for transfer and that the person requesting such payment shall pay any transfer or other taxes required by reason of the payment to a person other than the registered holder of the certificate surrendered or establish

to the satisfaction of the Surviving Corporation that such transfer or other taxes have been paid or are not applicable.

2.04. Adjustments. If, between the date of this Agreement and the Effective Time, the outstanding shares of the Company Common Stock shall be changed into a different number of shares or a different class by reason of any reclassification, recapitalization, split-up, combination, exchange of shares or readjustment, or if a stock dividend thereon shall be declared with a record date within such period, the amount of consideration to be received pursuant to this Article II in exchange for each outstanding share of the Company Common Stock shall be correspondingly adjusted.

2.05. Supplementary Action. If, at any time after the Effective Time, the Surviving Corporation shall consider or be advised that any further assignments or assurances are necessary or desirable to vest or to perfect or confirm of record in the Surviving Corporation the title to any property or rights of either of the Constituent Corporations, or otherwise to carry out the provisions of this Agreement, the officers and directors of the Surviving Corporation are hereby authorized and empowered on behalf of the respective Constituent Corpo-

rations, in the name of and on behalf of the appropriate Constituent Corporation, to execute and deliver any and all things necessary or proper to vest or to perfect or conform title to such property or rights in the Surviving Corporation, and otherwise to carry out the purposes and provisions of this Agreement.

ARTICLE III
REPRESENTATIONS AND WARRANTIES
OF THE COMPANY

The Company represents and warrants to the Parent and Acquisition that the following representations and warranties are true and correct.

3.01. Organization; Qualification. Each of the Company and each of the subsidiaries of the Company (the "Subsidiaries") identified in the disclosure schedule previously delivered to the Parent (the "Disclosure Schedule"), is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation, and each has all requisite corporate power and authority to own, lease and operate its properties and to carry on its business as now being conducted. The Company and each of the Subsidiaries is duly qualified or licensed to do business as a foreign corporation in good standing in each jurisdiction

in which the property owned, leased or operated by it or the nature of the business conducted by it makes such qualification necessary, except in those jurisdictions where the failure to be so qualified would not, in the aggregate, have a material adverse effect on the business, operations or financial condition of the Company. The Company has heretofore caused to be delivered to the Parent complete and correct copies of the charter and by-laws, as currently in effect, of the Company and each of the Subsidiaries. For purposes of this Agreement, the term "Business" refers to the business presently conducted by the Company which previously was conducted by the Resilient Flooring Division of the Delaware corporation organized in 1984 and prior to April 18, 1986 known as "Congoleum Corporation" ("1984 Congoleum").

3.02. Capitalization.

(a) The authorized capital stock of the Company consists of 1,000 shares of the Company Common Stock, all of which are issued and outstanding as of the date of this Agreement. All of the issued and outstanding shares of capital stock of the Company and of each of the Subsidiaries are duly authorized, validly issued, fully paid and nonassessable. Except as set forth in the Disclosure Schedule, all outstanding shares of capital

stock of the Subsidiaries are owned by the Company or one of the Subsidiaries, in each case free and clear of all pledges, security interests, liens, charges, encumbrances and claims of whatever nature except for pledges and other security interests under the Credit Agreement, dated as of May 31, 1984, by and among Bath Iron Works Corporation, as successor-by-merger to N & R Funding Corp. ("Bath"), the banks named therein and Manufacturers Hanover Trust Company, as the agent for such banks, as amended to the date of this Agreement, and under the Interest Rate Agreement, dated as of June 21, 1984, by and among Bath, as the successor-by-merger to N & R Funding Corp., such banks and such agent, as amended to the date of this Agreement (collectively with related guarantees and other agreements, the "Bank Agreements"), and under the respective Note Purchase Agreements, dated as of May 31, 1984, by and between Bath, as the successor-by-merger to N & R Funding Corp., and each of the insurance companies named therein, as amended to the date of this Agreement (collectively with related guarantees and other agreements, the "Insurance Company Agreements").

(b) Other than this Agreement and the agreements identified in the Disclosure Schedule, there is no subscription, option, warrant, call, right, agree-

ment or commitment relating to the issuance, sale, delivery or transfer by the Company or its stockholders of the Company Common Stock.

3.03. Authority Relative to This Agreement.

Each of the Company and CII has all requisite corporate power and authority to enter into this Agreement and, subject only to the necessary approval and adoption of this Agreement by CII's stockholders, each of CII and the Company has taken all corporate action required to authorize and to enter into this Agreement and to consummate the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by the Company and CII and constitutes a valid and binding agreement of the Company and CII enforceable

against the Company and CII in accordance with its terms, subject, as to enforcement, to bankruptcy, insolvency and other laws of general applicability relating to or affecting creditors' rights and to general equitable principles.

3.04. Consents and Approvals; No Violation.

(a) Except for the applicable requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act"), the consent of the New Jersey Department of Environmental Protection under the Environmental Cleanup Responsibility Act ("ECRA") and the filing of appropriate merger documents required by the GCL, the Company is not required to make any filing with, or to obtain any permit, authorization, consent or approval of, any governmental or regulatory authority as a condition to the execution, delivery or performance of this Agreement and the consummation of the transactions contemplated hereby other than any such requirements the ~~failure to comply with which would not, in the aggregate,~~ have a material adverse effect on the business, operations or financial condition of the Company or other than any such requirement that is applicable as a result of the specific legal or regulatory status of the Parent or Acquisition or as a result of any other facts that specifically relate to the business or activities in which the Parent or Acquisition is or proposes to be engaged (other than the Business).

(b) Except as set forth in the Disclosure Schedule or as otherwise disclosed in writing to the

Parent or Acquisition, neither the execution and delivery of this Agreement by the Company nor the consummation of the transactions contemplated hereby will (i) conflict with or result in any breach of any provisions of the charter or by-laws of the Company, (ii) result in a default (or give rise to any right of termination, cancellation or acceleration) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, agreement, lease or other instrument or obligation to which the Company is a party or by which the Company or any of its assets may be bound, except for such defaults (or rights of termination, cancellation or acceleration) as to which requisite waivers or consents have been obtained, or (iii) violate any order, writ, injunction or decree applicable to the Company or any of its assets, excluding from the foregoing clauses (ii) and (iii) such defaults, rights and violations which would not, in the aggregate, have a material adverse effect on the business, operations or financial condition of the Company and any such defaults, rights and violations which would occur as a result of the specific legal or regulatory status of the Parent or Acquisition or as a result of any other facts that specifically relate to the

business or activities in which the Parent or Acquisition is or proposes to be engaged (other than the Business).

3.05. Financial Statements

(a) The Company has previously caused to be furnished to the Parent an audited balance sheet of the Company as of December 31, 1985 (the "Balance Sheet") and the related audited statements of income and changes in financial position for the year then ended (such balance sheet and related statements, collectively, the "Financial Statements"), together with the report thereon of Arthur Andersen & Co. ("Arthur Andersen"), the Company's independent public accountants. The Balance Sheet presents fairly the financial position of the Company as of December 31, 1985, and the other related statements

included therein present fairly the results of its operations and changes in its financial position for the year then ended all in conformity with generally accepted accounting principles applied on a basis consistent with the preceding year.

3.06. Absence of Undisclosed Liabilities.

Except as and to the extent reflected or reserved against in the Balance Sheet or as disclosed in the Disclosure Schedule or as otherwise disclosed in writing to the Parent or Acquisition and except for liabilities arising

in the ordinary course of business since the date of the Balance Sheet, the Company has no liabilities, secured or unsecured, fixed or contingent, which are, in the aggregate, material to the Company.

3.07. Absence of Certain Changes or Events.

Except as set forth in the Disclosure Schedule or as otherwise disclosed in writing to the Parent or Acquisition or as reflected in the Balance Sheet and except as otherwise contemplated by this Agreement, since the date of the Balance Sheet, there has not been: (a) any material adverse change in the business, results of operations or financial condition of the Company; (b) any declaration, setting aside or payment of any dividend or ~~other distribution (whether in cash, stock, property or~~ any combination thereof) in respect of the Company's capital stock, or any redemption or other acquisition by the Company of any shares of the Company's capital stock, except that all intercompany accounts between the Company and CII outstanding at June 30, 1986 or at the Effective Time will be forgiven at the Effective Time; (c) any damage, destruction or casualty loss, whether covered by insurance or not, materially and adversely affecting the business, operations or financial condition of the Company; (d) (i) any increase in the rate or terms of compen-

sation payable or to become payable by the Company to its directors, officers or key employees except increases occurring in the ordinary course of business in accordance with its customary practices (which shall include normal periodic performance reviews and related compensation and benefit increases), or (ii) any increase in the rate or terms of any bonus, insurance, pension or other employee benefit plan, payment or arrangement made to, for or with any such directors, officers or key employees except increases occurring in the ordinary course of business in accordance with its customary practices (which shall include normal periodic performance reviews and related compensation and benefit increases); (e) any ~~entry into any agreement, commitment or transaction (in-~~cluding, without limitation, any borrowing, capital expenditure or capital financing) by the Company material to the Company, except for (i) agreements, commitments or transactions which will not be or give rise to obligations of the Company following the Effective Time and (ii) agreements, commitments or transactions in the ordinary course of business; (f) any material change by the Company in accounting methods, principles or practices except as required or permitted by generally accepted accounting principles; or (g) (i) any creation, incur-

rence or assumption of any indebtedness for money borrowed by the Company (including obligations in respect of capital leases) except for (A) obligations which will not be obligations of the Company following the Effective Time, (B) purchase money mortgages granted, or capital leases made, in connection with the acquisition of property in the ordinary course of business, (C) short-term indebtedness in an amount not to exceed the sum of the aggregate amount of such short-term indebtedness outstanding on the date of the Balance Sheet plus \$1,000,000 and (D) intercompany loans and advances; or (ii) any assumption, guarantee or endorsement of, or any other incurrence of liability or responsibility for (whether directly, contingently or otherwise) the obligations of any other person by the Company except for (A) assumptions, guarantees, endorsements or incurrences of liability or responsibility which will not be obligations of the Company following the Effective Time, (B) intercompany guarantees by the Company in favor of a Subsidiary in the ordinary course of business and (C) the endorsement by the Company of negotiable instruments in the ordinary course of business.

3.08. Title and Related Matters. Except as set forth in the Disclosure Schedule or as otherwise

disclosed in writing to the Parent or Acquisition and except for Permitted Exceptions (as defined in Section 8.09), the Company has good title to all of the properties and assets which it purports to own material to the business, operations or financial condition of the Company, including, without limitation, the properties reflected in the Balance Sheet (other than those which have been disposed of since the date thereof in the ordinary course of business), free and clear of all pledges, security interests, liens, charges, encumbrances and claims of whatever nature. Except as set forth in the Disclosure Schedule, the assets of the Company are sufficient in all material respects to carry on the operation of the Business as now conducted by the Company and as historically conducted by the Resilient Flooring Division of 1984 Congoleum.

3.09. Patents, Trademarks, Trade Names, Etc.

The Company owns, or is licensed or otherwise has the right to use, all patents, trademarks, trade names, copyrights, technology, know-how and processes which are, in the aggregate, material to the conduct of the Business, and the consummation of the transactions contemplated hereby will not alter or impair any such rights in a manner which would have a material adverse effect on the

business, operations or financial condition of the Company. No claims have been asserted by any person to the use of any such patents, trademarks, trade names, copyrights, technology, know-how or processes owned or used by the Company or challenging or questioning the validity or effectiveness of any license or agreement relating thereto to which the Company is a party and which would, in the aggregate, have a material adverse effect on the business, operations or financial condition of the Company. Except as set forth in the Disclosure Schedule, the Company has no notice that any product, process, method or design manufactured, used or sold by the Company infringes any patent, trademark, trade name or copyright of ~~any third person, except any such infringements which~~ would not, in the aggregate, have a material adverse effect on the business, operations or financial condition of the Company.

3.10. Leases. All leases which are material to the Business, pursuant to which the Company leases real or personal property used in the Business are listed on the Disclosure Schedule, are valid, binding and enforceable in accordance with their terms, and are in full force and effect, there are no defaults by the Company thereunder which are likely to have a material adverse

effect on the business, operations or financial condition of the Company and no event has occurred which (whether with or without notice, lapse of time or both) would constitute defaults thereunder which are likely to have a material adverse effect on the business, operations or financial condition of the Company.

3.11. Insurance. The Company and/or its predecessors have maintained with financially sound and reputable insurance companies insurance on all material properties used in the Business in at least such amounts and against at least such risks as are usually insured against by companies engaged in similar businesses. The Disclosure Schedule sets forth a complete list of all ~~material policies of liability, theft, fidelity, fire,~~ products' liability, workers' compensation and other forms of insurance with current policy periods covering the Company or maintained with respect to the Business, all of which are in full force and effect and all of the premiums with respect to which that have become due and payable have been paid. The Company has no knowledge of any pending or threatened terminations with respect to such policies. Subject to Section 5.11, the Company is, and after the Effective Time the Surviving Corporation

will be, entitled to the benefit of such insurance in accordance with such policies.

3.12. Labor Matters. There are no disputes or controversies with any union or other organization representing the Company which the Company believes are likely, in the aggregate, to have a material adverse effect on the business, operations or financial condition of the Company.

3.13. ERISA. The Company has fulfilled its obligations under the minimum funding standards of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), and the Internal Revenue Code of 1954, as amended (the Code"), with respect to each "employee pension benefit plan" (as defined in Section 3(2) of

ERISA) which is subject in all respects to Parts 2, 3 and 4 of Subtitle B of Title I of ERISA and which covers persons who, following the Effective Time, will be employed by the Company (the "Pension Plans"). The Pension Plans and all "employee welfare benefit plans" (as defined in Section 3(1) of ERISA) covering such employees ("Welfare Plans") are in compliance in all material respects with the presently applicable provisions of ERISA and the Code. The Company has not incurred any liability to the Pension Benefit Guaranty Corporation with respect

to any Pension Plan. Each Pension Plan which is a funded employee pension benefit plan has been determined by the Internal Revenue Service to be qualified under Section 401(a) of the Code or is a successor plan to a plan with respect to which such a determination has been made and, subject to the timely amendment of such plan to reflect recent amendments to ERISA and the Code, the Company knows of no fact which would adversely affect the qualified status of such plan. No withdrawal liability has been incurred by or asserted against the Company with respect to any "multi-employer plan" (as defined in Section 3(37) of ERISA) which covers persons who, following the Effective Time, will be employed by the Company. The Disclosure Schedule sets forth a list of each Pension

Plan, each Welfare Plan, and each multi-employer plan (as defined in Section 3(37) of ERISA, which covers persons who, following the Effective Time, will be employed by the Company. No civil or criminal action and no claim by a participant (other than claims in the ordinary course) is pending or to the knowledge of the Company is threatened against any Pension Plan or Welfare Plan or any fiduciary thereof other than claims which, in the aggregate, would have a material adverse effect on the business, operations or financial condition of the Company or

such plans. The Company has no notice that any multi-employer plan is in reorganization within the meaning of Part 3 of Subtitle E of Title 4 of ERISA.

3.14. Certain Contracts and Arrangements.

(a) Except as set forth in the Disclosure Schedule or as otherwise disclosed in writing to the Parent or Acquisition or in the Balance Sheet, the Company is not a party to any: (i) written employment agreement which will be the continuing obligation of the Company subsequent to the Effective Time and which (A) is not terminable by the Company on ninety or fewer days' notice at any time without penalty and (B) involves the payment by the Company, subsequent to the date of this Agreement, of more than \$150,000; (ii) contract, plan or arrangement, including, without limitation, plans relating to pension, retirement, deferred compensation or incentive compensation, covering, or any loan or advance (excluding normal travel and expense advances) to, any of the directors or officers of the Company which will be the continuing obligation of the Company subsequent to the Effective Time, except for (A) such contracts, plans, arrangements, loans or advances as are available to salaried employees generally at one or more locations of the Company or (B) any such contract, plan, arrangement, loan

or advance which in any one year involves the payment by or to the Company, subsequent to the date of this Agreement, of less than \$250,000; (iii) indenture, mortgage, note, installment obligation, agreement or other instrument relating to the borrowing of money in excess of \$1,000,000 by the Company or the guaranty of any obligation for the borrowing of money in excess of \$1,000,000 by the Company other than, in either such case, obligations which will not be obligations of the Company following the Effective Time; (iv) patent, technology or software license agreement, except for license agreements which are not, in the aggregate, material to the Business; or (v) other agreement which (A) is not terminable by the Company on ninety or fewer days' notice at any time without penalty and (B) involves the receipt or payment by the Company, subsequent to the date of this Agreement, of more than \$1,000,000.

(b) There is not, under any of the agreements or other obligations referred to in Section 3.14(a), any event of default or event which, with notice or lapse of time or both, would constitute an event of default on the part of the Company, except for such events of default and other events as to which requisite waivers or consents have been obtained or which would

not, in the aggregate, have a material adverse effect on the business, operations or financial condition of the Company.

3.15. Legal Proceedings, Etc. Except as set forth in the Disclosure Schedule or as otherwise disclosed in writing to the Parent or Acquisition or as reflected in the Balance Sheet, there is no claim, action or proceeding pending or, to the Company's best knowledge, threatened, or, to the Company's best knowledge, any investigation, pending or threatened, against or relating to the Company before any court or governmental or regulatory authority or body with respect to which there is a reasonable likelihood of a determination which, if adversely decided, would, in the aggregate,

have a material adverse effect on the business, operations or financial condition of the Company. Except as set forth in the Disclosure Schedule or as otherwise disclosed in writing to the Parent or Acquisition or as reflected in the Balance Sheet, the Company is not subject to any outstanding orders, writs, injunctions or decrees which, in the aggregate, materially and adversely affects the business, operations or financial condition of the Company.

3.16. Taxes. CII or the Company has paid or made adequate provision for the payment of all material federal, state and local taxes required to be paid and currently due in respect of the Business.

3.17. Compliance with Laws. The Business has been conducted in all material respects in compliance with all of the laws, regulations, rules, orders, judgments, decrees and other requirements imposed by any governmental authority applicable to it, noncompliance with which would, in the aggregate, have a material adverse effect on the business, operations or financial condition of the Company.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF THE PARENT AND ACQUISITION

The Parent and Acquisition each severally represents and warrants to the Company as follows:

4.01. Organization. Each of the Parent and Acquisition is a corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation and has all requisite corporate power and authority to own, lease and operate its properties and to carry on its business as now being conducted. The Parent has heretofor delivered to the

Company complete and correct copies of the charter and by-laws, as currently in effect, of each of the Parent and Acquisition.

4.02. Capitalization of Acquisition. The authorized capital stock of Acquisition consists of 1,000 shares of Acquisition Common Stock, all of which are validly issued and outstanding. All of the issued and outstanding shares of Acquisition Common Stock are owned of record by the Parent and are duly authorized, validly issued, fully paid and nonassessable.

4.03. Authority Relative to This Agreement. Each of the Parent and Acquisition has all requisite corporate power and authority to enter into this Agreement and has taken all corporate action required to authorize and to enter into this Agreement and to consummate the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by the Parent and Acquisition and constitutes a valid and binding agreement of each of the Parent and Acquisition enforceable against it in accordance with its terms, subject, as to enforcement, to bankruptcy, insolvency and other laws of general applicability relating to or affecting creditors' rights and to general equitable principles.

4.04. Consents and Approvals; No Violation.

(a) Except for the applicable requirements of the HSR Act, ECRA and the filing of appropriate merger documents required by the GCL, neither the Parent nor Acquisition is required to make any filing with, or to obtain any permit, authorization, consent or approval of, any governmental or regulatory authority as a condition to the execution, delivery or performance of this Agreement and the consummation of the transactions contemplated hereby.

(b) Neither the execution and delivery of this Agreement by the Parent and Acquisition nor the consummation of the transactions contemplated hereby will

(i) conflict with or result in any breach of any provision of the charter or by-laws of the Parent or Acquisition, (ii) result in a default (or give rise to any right of termination, cancellation or acceleration) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, agreement, lease or other instrument or obligation to which the Parent or or any of its subsidiaries is a party or by which any of their respective assets may be bound, except for such defaults (or rights of termination, cancellation or acceleration) as to which requisite waivers or consents have been obtained or which

would not, in the aggregate, have a material adverse effect on the business, operations or financial condition of the Parent and its subsidiaries taken as a whole, or (iii) violate any order, writ, injunction or decree applicable to the Parent, any of its subsidiaries or any of their respective assets.

ARTICLE V

COVENANTS OF THE PARTIES

5.01. Conduct of Business of the Company.

Except as contemplated by this Agreement, during the period from the date of this Agreement to the Effective Time, the Company will conduct its business according to its ordinary and usual course of business and, prior to the Effective Time, without the prior written consent of the Parent, the Company will not and CII will not permit the Company to:

(i) (A) create, incur or assume any indebtedness for money borrowed (including obligations in respect of capital leases) except for (1) obligations which will not be obligations of the Company following the Effective Time, (2) purchase money mortgages granted, or capital leases made, in connection with the acquisition of property in the ordi-

nary course of business, (3) short-term indebtedness in an amount not to exceed the sum of the aggregate amount of such short-term indebtedness outstanding on the date of the Balance Sheet plus \$1,000,000 and (4) intercompany loans and advances; or (B) assume, guarantee, endorse or otherwise become liable or responsible (whether directly, contingently or otherwise) for the obligations of any person except for (1) obligations which will not be obligations of the Company following the Effective Time, (2) intercompany guarantees by the Company in favor of a Subsidiary in the ordinary course of business and (3) the endorsement by

the Company of negotiable instruments in the ordinary course of business;

(ii) (A) issue any shares of the Company's capital stock or any subscription, option, warrant, call, right, agreement or commitment relating to the issuance, sale, delivery or transfer of the Company's capital stock; or (B) declare, set aside or pay any dividend or other distribution (whether in cash, stock or property or any combination

thereof) in respect of the Company's capital stock, or redeem or otherwise acquire any shares of the Company's capital stock, except that all intercompany accounts existing between the Company and CII outstanding at June 30, 1986 or at the Effective Time will be forgiven at the Effective Time;

(iii) (A) increase the rate or terms of compensation payable or to become payable by the Company to its directors, officers or key employees who, following the Effective Time, will be employed in the Business, except for increases occurring in the ordinary course of business in accordance with its cus-

tomary practices (which shall include normal periodic performance reviews and related compensation and benefit increases); or (B) increase the rate or terms of any bonus, insurance, pension or other employee benefit plan, payment or arrangement made to, for or with any such directors, officers or key employees, except for increases occurring in the ordinary course of business in accordance with its customary practices (which shall include normal

periodic performance reviews and related compensation and benefit increases);

(iv) enter into agreements, commitments or transactions (including, without limitation, any borrowing, capital expenditure or capital financing), which are, in the aggregate, material to the Company, except for agreements, commitments or transactions in the ordinary course of business;

(v) materially change the accounting methods, principles or practices employed by the Company except as required by generally accepted accounting principles and except for immaterial changes not required to be disclosed in accordance with generally accepted accounting principles; or

(vi) release or write off any claims against others or discharge, settle, satisfy or pay any obligations or liabilities of, or liens, claims, lawsuits or encumbrances against, the Company, in any such event which would have a material adverse effect on the business, operations or financial condition of

the Company, other than in the ordinary course of its business.

5.02. Access to Information.

(a) Between the date of this Agreement and the Effective Date, the Company will during ordinary business hours (i) give the Parent and its authorized representatives access to all books, records, offices and other facilities and properties of the Company and its affiliates relating solely to the Business, (ii) permit the Parent to make such inspections and copies thereof as the Parent may request, and (iii) cause its officers and use its best efforts to cause its independent auditors to furnish the Parent with such financial and operating data and other information with respect to the business and

properties of the Company as the Parent may from time to time request; provided, however, that any such investigation shall be conducted in such a manner as not to interfere unreasonably with the operation of the business of the Company or such affiliate.

(b) The Parent and the Surviving Corporation each agrees that subsequent to the Effective Time, CII and its agents or accountants will be permitted reasonable access, during normal business hours, and as often as CII may reasonably desire, consistent with rea-

sonable requirements of the Surviving Corporation, to the books and records of the Company and the Surviving Corporation with respect to periods prior to the Effective Time and shall have the right to make copies thereof and excerpts therefrom. The employees of the Surviving Corporation will, upon reasonable prior notice and consistent with the reasonable requirements of the Surviving Corporation be made available to CII to the extent reasonably required for the purpose of assisting CII in the preparation of its tax returns, and audit thereof, with respect to periods prior to the Effective Time or prosecuting or defending or preparing for the prosecution or defense of any action, suit, claim, charge, complaint, proceeding or investigation at any time brought by or

pending against CII.

(c) The Parent and the Surviving Corporation each agrees to retain or cause the Company to retain the books and records of the Company and the Surviving Corporation for a period of six years after the Effective Time or for such longer period as may be required by applicable law and may thereafter, upon 90 days' written notice to CII (but not otherwise), destroy such books and records; provided, however, that CII may request the retention of such books and records for such

additional time as CII may determine is reasonably necessary at the expense of CII.

(d) Prior to the Effective Time, any information provided to the Parent or Acquisition pursuant to this Agreement shall be held by such one in accordance with and shall be subject to the terms of the Confidentiality Agreement by and between the Parent and The First Boston Corporation relating to the transactions contemplated hereby (the "Confidentiality Agreement").

(e) CII agrees that, subsequent to the Effective Time, the Parent and the Surviving Corporation and their agents and accountants will be permitted reasonable access, during normal business hours, and as often as the Parent or the Surviving Corporation may

reasonably desire, consistent with reasonable requirements of CII, to the books and records of CII and its affiliates, insofar as such books and records contain information or data solely pertaining to the Company or the conduct of the Business prior to the Effective Time to the extent such information is not otherwise available at the offices or other facilities of the Company, and shall have the right to make copies thereof and excerpts therefrom. The employees of CII and its affiliates will upon reasonable prior notice and consistent with the

reasonable requirements of CII or its affiliates be made available to the Parent or the Surviving Corporation to the extent reasonably required for the purpose of (i) assisting the Parent or the Surviving Corporation in the preparation of financial statements of the Company in accordance with generally accepted accounting principles, and audit thereof, for periods prior to the Effective Time, provided that the Surviving Corporation shall, if requested, reimburse CII for reasonable charges for the services of such employees, or (ii) prosecuting or defending or preparing for the prosecution or defense of any action, suit, claim, charge, complaint, proceeding or investigation at any time brought by or pending against the Parent or the Surviving Corporation. To the extent

such information is not otherwise available at the office or other facilities of the Company, CII agrees to retain or cause its affiliates to retain all books and records containing information or data of the type referred to in this Section 5.02(e) for a period of six years after the Effective Time or for such longer period as may be required by applicable law and may thereafter, upon 90 days' written notice to the Parent (but not otherwise), destroy such books and records; provided, however, that the Parent or the Surviving Corporation may request the

retention of such books and records for such additional time as it may determine is reasonably necessary at its expense.

(f) Any information provided to CII pursuant to this Agreement shall be held by it as confidential and shall not be used for any purpose except as contemplated by this Agreement or shall not be disclosed to any third person except as may be required by law or order of any court of government agency without the prior written consent of the Parent, which consent shall not be unreasonably withheld.

5.03. Expenses. Whether or not the transactions contemplated hereby are consummated, all costs and expenses, including, without limitation, the costs and

expenses of legal, accounting and investment banking services incurred in connection with this Agreement and the transactions contemplated hereby will be paid by the party incurring such costs and expenses, provided, however, that no external legal, accounting and investment banking costs and expenses shall be charged to the Company.

5.04. Agreement to Defend and Indemnify.

(a) In the event that any action, suit, proceeding or investigation relating to this Agreement or the transactions contemplated hereby is commenced, whether before or after the Effective Time, the parties agree to cooperate and use their best efforts to defend against and respond thereto.

(b) It is understood and agreed that, subject to the limitations on indemnification contained in Section 145 of the GCL, the Company will indemnify and hold harmless, and, after the Effective Time, the Surviving Corporation will indemnify and hold harmless, each director, officer, employee and agent of the Company or the Surviving Corporation or their respective subsidiaries, as the case may be (the "Indemnified Parties"), against any and all losses, claims, damages, liabilities, costs, expenses (including, without limitation, attorneys' fees), judgments and amounts paid in settlement in connection with any pending, threatened or completed claim, action, suit, proceeding or investigation, whether civil, criminal, administrative or investigative, arising out of or pertaining to any action or omission occurring prior to the Effective Time (including, without limitation, any claim, action, suit, proceeding or investiga-

tion arising out of or pertaining to the transactions contemplated by this Agreement) and in the event of any such claim, action, suit, proceeding or investigation (whether arising before or after the Effective Time), (i) the Company or the Surviving Corporation, as the case may be, shall retain counsel for the Indemnified Parties who shall be reasonably satisfactory to the Indemnified Parties, and shall pay reasonable fees and expenses of such counsel promptly as statements therefor are received, and (ii) the Company and the Surviving Corporation shall cooperate in the defense of any such matter; provided, however, that neither the Company nor the Surviving Corporation shall be liable for any such settlement effected without its written consent, which consent, however,

shall not be unreasonably withheld. This covenant shall survive the Effective Time, shall continue without time limit and is intended to benefit each of the Indemnified Parties.

(c) The Parent shall continue in effect the indemnification provisions currently provided by the By-laws of the Company for a period of six years following the Effective Time.

(d) The Surviving Corporation will indemnify and hold harmless CII, Bath and their respec-

tive affiliates (including, without limitation, Curtis Industries, Inc., its successors and assigns ("Curtis")) against any and all losses, claims, damages, liabilities, costs, expenses (including, without limitation, attorneys' fees), judgments and amounts paid in settlement in connection with any pending, threatened or completed claim, action, suit, proceeding or investigation, whether civil, criminal, administrative or investigative, incurred or suffered by CII or its affiliates arising (before or after the Effective Time) out of or relating to the conduct of the Business whether before or after the Effective Time (including, without limitation, any claim, action, suit, proceeding or investigation arising out of ~~or pertaining to the transactions contemplated by this~~ Agreement). This covenant shall survive the Effective Time, shall continue without time limit and is intended to benefit CII, Bath and their respective affiliates.

(e) CII will make an election under Section 338(h)(10) of the Code and will indemnify and hold harmless the Surviving Corporation against any and all (i) federal, state and local income tax liability (except for any liability resulting from the consummation of the Merger or any election made by the Parent or Acquisition with respect to the Company other than an elec-

tion under Section 338(h)(10)), including related interest, penalties and additions, of the affiliated group of corporations in which CII is included for such group's taxable year which includes the Effective Time and each prior year, and (ii) liabilities, costs, expenses (including, without limitation, attorneys' fees), losses, claims, damages, liabilities, costs, expenses, assessments, settlements and judgments arising out of or incident to the imposition, assessment or assertion of any such income tax liability, including those incurred in the contest in good faith by appropriate proceedings of the imposition, assessment or assertion of any such taxes, and any liability of any indemnified party as transferee. This covenant shall survive the Effective Time

and shall continue until the expiration of the statute of limitations (including extensions) applicable to any such taxable year.

5.05. Further Assurances. Subject to the terms and conditions of this Agreement, each of the parties shall use all reasonable efforts to take, or cause to be taken, all action, and to do, or cause to be done, all things necessary, proper or advisable under applicable laws, regulations and contracts to consummate and make effective the transactions contemplated by this

Agreement, including, without limitation, the filing of all requisite documents and notifications pursuant to the HSR Act and ECRA in connection with the transactions contemplated by this Agreement and the obtaining by CII of the necessary approval and adoption of this Agreement by its stockholders.

5.06. Public Announcements. The Company and the Parent will consult with each other before issuing any press releases or otherwise making any public statements with respect to this Agreement and the transactions contemplated hereby and shall not issue any such press release or make any such public statement without the prior approval of the other party.

5.07. Commissions. The Company and the Parent each represents and warrants to the other that, except for The First Boston Corporation, which is acting for CII, no broker, finder or other person is entitled to any brokerage fees, commissions or finder's fees in connection with the transactions contemplated hereby by reason of any action taken by the party making such representation.

5.08. Change of Name and Licenses.

(a) On or before the Effective Date, CII will, and will cause each of its subsidiaries to, change its name to a name not including the word "Congoleum". Except as provided in Section 5.08(b) or 5.08(c), CII will, and will cause each of its subsidiaries to, refrain from using the name Congoleum in connection with the advertising, promotion, or sale of its products, or the offering or performance of its services, after the Effective Time.

(b) Notwithstanding the provisions of Section 5.08(a) CII's subsidiary, Kinder Manufacturing Corporation, its successors and assigns ("Kinder"), shall have the royalty-free, non-exclusive right and license to use (including, but not limited to, use as a trademark or trade name), for a period of two years after the Effective Time, the name Congoleum and the Congoleum logotype in connection with the advertising, promotion and sale in the United States of furniture and furnishings, other than flooring; provided, that the goods with respect to which such use is made are of a quality at least comparable to the quality of the goods currently sold by Kinder. Such right and license of Kinder shall include a royalty-free non-exclusive license for such use, for such period,

with respect to goods of such quality, under any and all applicable United States state and federal registrations of such name or logotype as a trademark or trade name.

(c) Notwithstanding the provisions of Section 5.08(a), Curtis and its subsidiaries may, without royalty or other charge, use and sell or otherwise dispose of, for a period of one year following the Effective Time, any products, packaging materials, catalogues, training manuals, advertising and promotional materials, stationery, and other items bearing such name which are currently in inventory, or in process, or on order; provided, that such items, and any goods with respect to which they are used, are of a quality at least comparable to the quality of such items or goods as currently used or sold by Curtis.

5.09. Schedules. The Company shall have the continuing obligation promptly to supplement or amend the Disclosure Schedule being delivered concurrently with the execution of this Agreement with respect to any matter hereafter arising or discovered which, if existing or known at the date of this Agreement, would have been required to be set forth or described in the Disclosure Schedule. The Parent shall have the right to approve or disapprove any such proposed supplement or amendment and,

unless objected to in writing mailed or hand delivered with five business days after the date when the Parent actually receives the proposed supplement or amendment or, if earlier, prior to the Effective Time, the Parent shall be deemed to have approved the proposed change.

5.10. Interim Financial Statements. The Company shall request Arthur Andersen to conduct an audit, in accordance with generally accepted auditing standards, of (a) the balance sheet of the Company as of June 30, 1986 (the "Interim Balance Sheet") and (b) the statement of income of the Company for the six months then ended (together with the Interim Balance Sheet, the "Interim Financial Statements"). Arthur Andersen shall be requested to deliver, not later than August 7, 1986, the Interim Financial Statements to the Company and the Parent, together with their report thereon, which shall state that the Interim Financial Statements fairly present the financial position and results of operations of the Company in conformity with generally accepted accounting principles applied on a basis consistent with the Financial Statements.

5.11. Certain Insurance Matters. CII agrees that, following the Effective Time and subject to reimbursement to CII of its and Bath's actual expenses in

connection therewith, it will, and will cause Bath to, afford to the Parent and the Surviving Corporation assistance in filing and pursuing with the present and former insurance carriers of CII and Bath, their respective predecessors and subsidiaries and subsidiaries of such predecessors claims by the Surviving Corporation against such carriers which relate to insurance coverage in effect for CII, its predecessors and their respective subsidiaries for periods prior to the Effective Time. For purposes of calculating its actual expenses, CII may make a reasonable allocation of expenses for compensation of individuals employed by it, Bath or a subsidiary of Bath who direct attention to the filing and processing of such claims of all affiliates of CII other than Bath, to the extent (and only to the extent) that the aggregate amount of all such allocations exceeds \$100,000.

5.12. Domco Litigation.

(a) In the event that the action styled Domco Indus. Ltd. v. Armstrong Cork Canada Ltd. pending in the Federal Court of Canada (the "Domco Litigation") shall not have been settled by the Company prior to the Effective Time (it being expressly understood that no such settlement in excess of \$11,000,000 shall be effected by the Company without the prior written consent of

the Parent), the Parent shall cause the Company, following the Effective Time, to pursue vigorously in good faith the defense of the Domco Litigation. In connection with the defense of the Domco Litigation, the Parent and Acquisition each agree to cause the Company to permit a representative chosen by persons holding a majority of CII's Class A Common Stock immediately prior to the Effective Time (the "Stockholder Representative") to participate in, at its expense and with counsel of its own choosing, (i) the assembling, preparation and filing of all papers and documentation, (ii) the preparation of all legal and factual arguments, (iii) the selection of legal counsel, and (iv) the selection of expert and other witnesses and the determination of evidence to be presented, all as necessary to defend or appropriately settle the Domco Litigation. The Company shall not enter into any settlement of the Domco Litigation or any portion thereof without obtaining the prior express written approval of the Stockholder Representative, which approval will not unreasonably be withheld.

(b) In the event that the Domco Litigation shall either be settled or be reduced to a judgment after the Effective Time which the Parent and the Stockholder Representative shall reasonably agree should not

be appealed (the amount of such settlement or judgment being the "Settlement Amount"), CII will indemnify and hold harmless the Company for the amount, if any, by which the Settlement Amount exceeds \$6,000,000 but is less than or equal to \$11,000,000; provided, that, if the Stockholder Representative shall theretofore have declined to approve a bona fide, good faith settlement of the Domco Litigation which would have involved a Settlement Amount not greater than \$11,000,000, CII shall indemnify the Company for the amount by which the Settlement Amount exceeds \$6,000,000; and, provided further, that, if the Parent or the Company shall theretofore have declined to approve a bona fide, good faith settlement of the Domco Litigation which would have involved a Settlement Amount not greater than \$6,000,000, CII shall have no further obligation pursuant to this Section 5.12.

5.13. Production of Financing Documents. The Parent and Acquisition agree to use best efforts to provide to CII, as soon as practicable but in no event later than July 31, 1986, either definitive financing commitments reasonably acceptable to CII or definitive loan agreements with respect to, and in amount sufficient to provide, all debt financing required by the Parent and Acquisition to effect the Merger.

ARTICLE VI

CLOSING CONDITIONS

6.01. Conditions to Each Party's Obligations to Effect the Transactions Contemplated Hereby. The respective obligations of each party to effect the transactions contemplated hereby shall be subject to the fulfillment at or prior to the Effective Time of the following conditions:

(a) none of the Company, the Parent or Acquisition shall be subject to any order, decree or injunction of a court of competent jurisdiction which prevents or delays any of the transactions contemplated by this Agreement;

(b) the Company and the Parent and any other "person" (as defined in the HSR Act) required in connection with the transactions contemplated hereby to file a Notification and Report Form for Certain Mergers and Acquisitions with the Department of Justice and the FTC pursuant to the HSR Act shall have made such filing and all applicable waiting periods with respect to each such filing (including any extensions thereof) shall have expired or been terminated;

(c) the Company and the Parent shall have received all material consents necessary in connec-

tion with transactions contemplated by this Agreement, including consents under ECRA, and, if required, under the agreements set forth in the Disclosure Schedule in reference to Sections 3.02 and 3.04(b)(ii); provided, that the obtaining of such consents shall not have imposed upon the Company or the Surviving Corporation any material obligations, financial or otherwise; and

(d) the Company shall have furnished to the Parent fee title insurance commitments, dated not earlier than 30 days prior to the date of this Agreement, reasonably satisfactory to the Parent, relating to each of the Company's real properties, in amounts reasonably acceptable to the Parent, subject only to Permitted Exceptions, and the insurance companies issuing such commitments shall not have refused to insure such title, effective as of the Effective Time.

6.02. Conditions to the Obligations of CII and the Company to Effect the Transactions Contemplated Hereby. The obligations of CII and the Company to effect the transactions contemplated hereby shall be further subject to the fulfillment at or prior to the Effective Time of the following conditions, any one or more of which may be waived by CII and the Company:

(a) the Parent and Acquisition shall,

in all material respects, have performed and complied with the agreements contained in this Agreement required to be performed and complied with by it at or prior to the Effective Time, and the representations and warranties of the Parent and Acquisition set forth in this Agreement shall be true and correct in all material respects as of the Effective Date as though made at and as of the Effective Time, except as otherwise contemplated by this Agreement;

(b) the Company shall have received an opinion from counsel for the Parent and Acquisition, dated as of the Effective Time and satisfactory in form and substance to the Company and its counsel, substantially to the effect that:

(i) each of the Parent and Acquisition are corporations organized, existing and in good standing under the laws of the State of its jurisdiction of incorporation and has the corporate power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby; and the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by

all requisite corporate action taken on the part of the Parent and Acquisition;

(ii) this Agreement has been executed and delivered by the Parent and Acquisition and (assuming the valid authorization, execution and delivery of this Agreement by the Company) is a valid and binding agreement of the Parent and Acquisition, enforceable against the Parent and Acquisition in accordance with its terms, except (A) that such enforcement may be subject to bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to creditors' rights, and (B) that the remedy of specific

performance and injunctive and other forms of equitable relief are subject to certain equitable defenses and to the discretion of the court before which any proceeding therefor may be brought; and

(iii) the execution, delivery and performance of this Agreement by the Parent and Acquisition will not constitute a violation of the charter or by-laws, as currently in effect, of the Parent or Acquisition.

As to any matter contained in such opinion which involves the laws of any jurisdiction other than the federal laws of the United States or the laws of the States of New York or Delaware such counsel may rely upon opinions of counsel admitted to practice in such other jurisdictions. Any opinions relied upon by such counsel as aforesaid shall be delivered together with the opinion of such counsel. Such opinion may expressly rely as to matters of fact upon certificates furnished by appropriate officers and directors of the Parent or Acquisition and its subsidiaries and by public officials; and

(c) CII shall have received, on or prior to July 11, 1986, a written opinion from The First Boston Corporation to the effect that the transactions contemplated by this Agreement are fair, from a financial point of view, to CII and its stockholders.

6.03. Conditions to the Obligations of the Parent or Acquisition to Effect the Transactions Contemplated Hereby. The obligations of the Parent or Acquisition to effect the transactions contemplated hereby shall be further subject to the fulfillment at or prior to the Effective Time of the following conditions, any one or more of which may be waived by the Parent or Acquisition:

(a) the Company shall, in all material respects, have performed and complied with the agreements contained in this Agreement required to be performed and complied with by it at or prior to the Effective Time, and the representations and warranties of the Company set forth in this Agreement shall be true and correct in all material respects as of the Effective Time as though made at and as of the Effective Time except as otherwise contemplated by this Agreement;

(b) the Parent and Acquisition shall have received an opinion from counsel to the Company, dated as of the Effective Time and satisfactory in form and substance to the Parent and Acquisition and their counsel, substantially to the effect:

(i) that the Company is a corporation organized, existing and in good standing under the laws of the State of Delaware and has the corporate power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby; and that the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly autho-

rized by all requisite action on the part of the Company;

(ii) that this Agreement has been executed and delivered by the Company and (assuming the valid authorization, execution and delivery of this Agreement by the Parent and Acquisition) is a valid and binding agreement of the Company in accordance with its terms, except (A) that such enforcement may be subject to bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to creditors' rights and (B) that the remedy of specific performance and injunctive and other forms of

equitable relief are subject to certain equitable defenses and to the discretion of the court before which any proceeding therefor may be brought;

(iii) that neither the execution and delivery of this Agreement by the Company nor the consummation by the Company of the Merger will conflict with or result in a breach of the Company's charter or the Company's by-laws, as currently in effect;

(iv) provided in Sections
3.04 and 3.15; and

(v) that, upon the filing of
the Certificate of Merger, the Merger will be
effective in accordance with the terms and
provisions of this Agreement and the GCL.

As to any matter contained in such opinion
which involves the laws of any jurisdiction other than
the federal laws of the United States or the laws of the
States of New York and Delaware, such counsel may rely
upon opinions of counsel admitted to practice in such
other jurisdictions. Any opinions relied upon by such
counsel as aforesaid shall be delivered together with the
opinion of such counsel. Such opinion may expressly rely

as to matters of fact upon certificates furnished by
appropriate officers and directors of the Company and by
public officials; and

(c) the Interim Financial Statements
shall have been delivered to the Parent and the working
capital of the Company (i.e., the excess of current as-
sets over current liabilities) reflected on the Interim
Balance Sheet shall not be less than \$42,875,000.

ARTICLE VII

TERMINATION AND ABANDONMENT

7.01. Termination. This Agreement may be terminated at any time prior to the Effective Time:

(a) by mutual consent of the Company, CII, the Parent and Acquisition;

(b) at any time subsequent to thirty days from the date hereof, (i) by the Parent and Acquisition if any of the conditions to their obligations shall not have been fulfilled or waived as of such date (other than the lapse of waiting periods imposed by statute or regulation) and each of their obligations hereunder shall have been fulfilled or waived or (ii) by the Company if any of the conditions to its obligations shall not have

been fulfilled or waived as of such date (other than the lapse of waiting periods imposed by statute or regulation) and each of its obligations hereunder shall have been fulfilled or waived;

(c) by the Parent, if there shall have been a material violation or breach by the Company of any agreement, representation or warranty contained in this Agreement which has rendered the satisfaction of any condition to the obligations of the Parent and Acquisi-

tion impossible and such violation or breach has not been waived by the Parent;

(d) by the Company, if there shall have been a material violation or breach by the Parent or Acquisition of any agreement, representation or warranty contained in this Agreement which has rendered the satisfaction of any condition to the obligations of the Company impossible and such violation or breach has not been waived by the Company;

(e) by the Company, if the Parent shall not have provided to CII, on or before July 31, 1986, either definitive financing commitments reasonably acceptable to CII or definitive loan agreements with respect to, and in amounts sufficient to provide, all debt financing required by the Parent and Acquisition to effect the Merger; or

(f) by the Company, if the Company shall not have received, on or prior to July 11, 1986, a written opinion from The First Boston Corporation, to the effect that the transactions contemplated by this Agreement are fair, from a financial point of view, to CII and its stockholders.

7.02. Procedure and Effect of Termination. In the event of termination of this Agreement and abandonment of the transactions contemplated hereby by any or all of the parties pursuant to Section 7.01, written notice thereof shall forthwith be given to the other

parties and this Agreement shall terminate and the transactions contemplated hereby shall be abandoned, without further action by any of the parties. If this Agreement is terminated as provided herein:

(a) such termination shall be the sole remedy of the parties with respect to breaches of any agreement, representation or warranty contained in this Agreement and none of the parties nor any of their respective directors, officers or affiliates, as the case may be, shall have any liability or further obligation to any of the other parties or any of their respective directors, officers or affiliates, as the case may be, pursuant to this Agreement, except in each case as stated in this Section 7.02 and in Sections 5.02(d), 5.03 and 5.07; and

(b) all filings, applications and other submissions made pursuant to Section 5.05 shall, to the extent practicable, be withdrawn from the agency or other person to which they were made.

ARTICLE VIII

MISCELLANEOUS PROVISIONS

8.01. Amendment and Modification. This Agreement may be amended, modified or supplemented by the parties, by action authorized by the respective Boards of Directors of the Company, CII, the Parent and Acquisition; provided, however, that, without the express ap-

proval of the stockholders of the Company and Acquisition, no amendment shall be made which shall (a) alter or change the amount or kind of consideration to be received in exchange for or on conversion of all or any of the shares of any class or series of the Constituent Corporations; or (b) alter or change any of the terms and conditions of this Agreement if such alteration or change would adversely affect the holders of shares of any class or series of securities of the Constituent Corporations. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties.

8.02. Waiver. At any time prior to the Effective Time, the parties may extend the time for the performance of any of the obligations or other acts of the other parties or may waive any inaccuracies in the representations and warranties contained herein or in any document delivered pursuant hereto in compliance with any of the agreements or conditions contained herein. Any agreement on the part of a party to any such extension or waiver shall be valid if set forth in an instrument in writing signed on behalf of such party.

8.03. Investigations; No Survival of Representations and Warranties. The respective representations and warranties of the Company, the Parent and Acquisition contained herein or in any certificates, schedules or other documents delivered prior to or at the Closing shall not be deemed to be waived or otherwise affected by

any investigation made by any party. Each and every such representation and warranty shall expire with, and be terminated and extinguished by, (i) the consummation of the Merger and shall not survive the Effective Time, or (ii) the termination of this Agreement pursuant to Section 7.01 or otherwise; and, thereafter, none of the Company, the Parent, Acquisition or any officer, director or affiliate of any of them shall be under any liability whatsoever with respect to any such representation or warranty. This Section 8.03 shall have no effect upon any other obligation of the parties, whether to be performed before or after the Effective Time.

8.04. Closing. The closing of the transactions contemplated by this Agreement shall take place at the offices of Skadden, Arps, Slate, Meagher & Flom, 919 Third Avenue, New York, New York 10022, as promptly as practicable following the satisfaction of all conditions precedent hereto.

8.05. Notices. All notices and other communications hereunder shall be in writing and shall be deemed to be given if delivered personally or by facsimile transmission, telexed or mailed by registered or certified mail (return receipt requested), postage prepaid, to the parties at the following addresses (or at such other address for a party as shall be specified by like notice; provided, that notices of a change of address shall be effective only upon receipt thereof):

(a) if to the Company or CII, to

Congoleum Corporation or
Congoleum Industries, Inc.
(as the case may be)
976 Market Street Extension
P.O. Box 4040
Portsmouth, New Hampshire 03801
Attention: Secretary

with copies to:

Skadden, Arps, Slate, Meagher & Flom
919 Third Avenue
New York, New York 10022
Attention: J. Gregory Milmoe, Esq.; or

(b) if to the Parent or Acquisition, to

Hillside Capital Incorporated
405 Park Avenue
New York, New York 10022
Attention: C. Barnwell Straut

with copies to:

Battle, Fowler, Jaffin & Kheel
280 Park Avenue
New York, New York 10017
Attention: David D. Griffin, Esq.

8.06. Assignment. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any party without the prior written consent of the other parties, nor is this Agreement intended to confer upon any other person except the parties any rights or remedies hereunder; provided, that this Section 8.06 is not intended to limit or restrict the class of persons entitled to the benefits of Section 5.04

or to limit or restrict any such person's standing or capacity to enforce the provisions of Section 5.04.

8.07. Governing Law. This Agreement shall be governed by the laws of the State of Delaware (regardless of the laws that might otherwise govern under applicable Delaware principles of conflicts of law) as to all matters, including, without limitation, to matters of validity, construction, effect, performance and remedies.

8.08. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

8.09. Interpretation. The article and section headings contained in this Agreement are solely for the purpose of reference, are not part of the agreement of

the parties and shall not in any way affect the meaning or interpretation of this Agreement. As used in Article III, the phrase "as disclosed in writing to the Parent or Acquisition" shall refer to a letter dated the date of this Agreement furnished by the Company to the Parent and referring specifically to this Agreement. As used in this Agreement, the term "person" shall mean and include an individual, a partnership, a joint venture, a corporation, a trust, an unincorporated organization and a governmental entity or any department or agency thereof. As used in this Agreement, the term "Permitted Exceptions" shall mean and include: (i) those exceptions to title to

the properties and assets of the Company and the Subsidiaries listed in the Disclosure Schedule; (ii) mortgages, liens, pledges, charges, security interests, encumbrances and restrictions which secure debt that is reflected as a liability on the Balance Sheet or which are otherwise reflected in the Balance Sheet, except for liabilities under the Bank Agreements and the Insurance Company Agreements; (iii) mortgages, liens, pledges, security interests, charges, claims, encumbrances and restrictions incurred in connection with the Company's, or a Subsidiary's purchase of properties and assets after the date of the Balance Sheet securing all or a portion of the purchase price therefor; provided, that the incurrence thereof does not constitute a breach of any representation or warranty of the Company or of any agreement of the Company contained in this Agreement; (iv) statutory liens for current taxes or assessments not yet due or delinquent or the validity of which is being contested in good faith by appropriate proceedings; (v) mechanics', carriers', workers', repairers' and other similar liens arising or incurred in the ordinary course of business relating to obligations as to which there is no default on the part of the Company or any Subsidiary; and (vi) such other liens, pledges, security interests, mortgages, imperfections in title, charges, claims, easements, rights of way, encumbrances and restrictions which do not materially detract from the value of or materially inter-

fere with the present use of any property subject thereto or affected thereby; provided, that the same do not render title to any material property unmarketable or uninsurable. As used in this Agreement, the term "subsidiary" when used in reference to any other person shall mean any corporation of which outstanding securities having ordinary voting power to elect a majority of the Board of Directors of such corporation are owned directly or indirectly by such other person. As used in this Agreement, the term "affiliate" shall have the meaning set forth in Rule 12b-2 of the General Rules and Regulations promulgated under the Securities Exchange Act of 1934, as amended.

8.10. Entire Agreement. This Agreement, including the documents, schedules, certificates and instruments referred to herein, and the Confidentiality Agreement embody the entire agreement and understanding of the parties in respect of the transactions contemplated by this Agreement. There are no restrictions, promises, representations, warranties, covenants or undertakings, other than those expressly set forth or referred to herein or therein. This Agreement supersedes all prior agreements and understandings between the parties with respect to such transactions other than the Confidentiality Agreement.

IN WITNESS WHEREOF, each of the parties has caused to be signed by its duly authorized officers this Agreement as of the date first above written.

(SEAL)

Attest:

CONGOLEUM CORPORATION

By: 

Secretary

By: 

Vice President

(SEAL)

Attest:

CONGOLEUM INDUSTRIES, INC.

By: 

Secretary

By: 

Vice President

(SEAL)

Attest:

RESILIENT HOLDINGS INCORPORATED

By: 

Secretary

By: 

President

(SEAL)

Attest:

RESILIENT ACQUISITION
INCORPORATED

By: 

Secretary

By: 

President

DISCLOSURE SCHEDULE

This Disclosure Schedule has been prepared in connection with the Agreement and Plan of Merger by and among
Resilient Holdings Incorporated (the "Parent"),
Resilient Acquisition Incorporated ("Acquisition"),
Congoleum Corporation (the "Company"), and Congoleum Industries, Inc. ("CII") dated as of July 1, 1986 (the "Merger Agreement"). Unless otherwise defined in this Disclosure Schedule, terms defined in the Merger Agreement shall have the same meaning when used herein.

This Schedule should be read as a whole and in conjunction with other information provided to the Parent or Acquisition. The section numbers refer to sections of the Merger Agreement, but they are given for reference only. Matters disclosed in reference to any specific section will be taken as being disclosed for all purposes of the Merger Agreement. Moreover, the disclosure of any matter in this Schedule should not be construed as indicating that such matter is required to be disclosed in order for any representation or warranty in the Merger Agreement to be true and correct, as some matters stated in this Schedule are given for informational purposes only.

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3.01 & 3.02(a) Congoleum Corporation Subsidiaries:

Congoleum International Corporation, a Delaware corporation and a wholly-owned subsidiary of Congoleum Corporation.

Congoleum Pty. Limited, a company organized under the laws of New South Wales, Australia. Congoleum Corporation is the legal and beneficial owner of two-thirds of the issued and outstanding capital stock of Congoleum Pty. Limited and the beneficial owner of the remaining one-third of such capital stock.

3.02(b) The following agreements are disclosed:

Purchase Agreement dated May 31, 1984 among Congoleum Industries, Inc. (then known as N&R Capital Ventures, Inc.) and the Purchasers identified therein, as amended by First Amendment dated as of April 16, 1986 (as so amended, the "Purchase Agreement").

The Bank Agreements.

~~The Insurance Company Agreements.~~

3.04(b)(ii) The following matters are disclosed:

(a) Execution and Delivery of the Merger Agreement and consummation of the transactions contemplated thereby may result in a default under the Bank Agreements and the Insurance Company Agreements, unless consents required under those Agreements are obtained.

(b) In addition, any such execution, delivery, or consummation may result in a default under the Purchase Agreement unless the written waiver of the holders of 90% of the outstanding Class A Common Stock of CII is obtained.

(c) In addition, any such execution, delivery, or consummation may conflict with the Restated Certificate of Incorporation of CII unless the prior written consent of the holders of at least 66-2/3% of the outstanding Preferred Stock of CII is obtained.

3.07(e) & (g) On April 18, 1986, the following transactions occurred:

(a) Having previously (on March 31, 1986) organized two new subsidiaries, Kinder Manufacturing Corporation ("Kinder") and the Company, 1984 Congoleum transferred the assets of its Kinder Division to Kinder and the assets of its Resilient Flooring Division to the Company.

(b) In consideration of 1984 Congoleum's transfer of assets to Kinder and the Company and in consideration of the consents to such transfer being given under the Bank Agreements and the Insurance Company Agreements, each such new subsidiary (i) assumed all liabilities of 1984 Congoleum directly related to the assets transferred to it (other than interest on indebtedness accrued to the date of such transfer) and (ii) guaranteed all obligations of 1984 Congoleum under the Bank Agreements, the Insurance Company Agreements, and the notes issued under the Bank Agreements and the Insurance Company Agreements.

(c) 1984 Congoleum transferred to its parent, CII, all of its remaining assets (except for the capital stock of Bath Iron Works Corporation ("BIW") and certain of 1984 Congoleum's minor subsidiaries), including the stock of Kinder, the Company, and Curtis Industries, Inc. ("Curtis"), and, in consideration of such transfer and in consideration of the consents to such transfer being given under the Bank Agreements and the Insurance Company Agreements, CII (i) assumed (x) all liabilities of 1984 Congoleum for interest accrued to the date of transfer on the notes issued under the Bank Agreements and Insurance Company Agreements, and (y) all other liabilities of 1984 Congoleum except for the liabilities assumed by Kinder and the Company as described above and the liabilities of 1984 Congoleum (other than those referred to in clause (x) above) under the Bank Agreements, the Insurance Company Agreements, and the notes issued under the Bank Agreements and the Insurance Company Agreements, (ii) guaranteed all obligations of 1984 Congoleum under

the Bank Agreements, the Insurance Company Agreements, and the notes issued under the Bank Agreements and the Insurance Company Agreements (the "Parent Guarantee"), and (iii) became obligated to pay to 1984 Congoleum on demand an amount equal to the book value of the assets transferred to CII, less the book value of the liabilities assumed as aforesaid.

(d) 1984 Congoleum merged with and into BIW, with BIW being the surviving corporation.

(f) Upon the effectiveness of the above merger, and in consideration of the consents thereto being given under the Bank Agreements and the Insurance Company Agreements, CII pledged the capital stock of Kinder, the Company, BIW, and Curtis or, in the case of the capital stock of BIW and Curtis, confirmed and reaffirmed an existing pledge of such stock, as collateral security for CII's obligations under the Parent Guarantee.

3.08 A parcel of land of approximately 67 acres, which is in close proximity to the Company's Trenton manufacturing facility but has not been used in the Business, is considered an asset of CII (and not of the Company). This asset is not reflected in the Balance Sheet.

3.09 The following matter is disclosed:

The Company currently purchases all of the latex used in the manufacture of the latex backing for its resilient flooring products from Dow Chemical U.S.A. ("Dow"). The Company has been approached by another supplier of latex, The B. F. Goodrich Company ("Goodrich"), about purchasing approximately 20% of its requirements from Goodrich. Dow has suggested that, if the Company uses latex purchased from Goodrich in the same way that it uses Dow's latex in manufacturing latex backing, the Company would violate a process patent owned by Dow. Goodrich disputes that infringement would occur and has indicated that it believes the process patent in question is invalid. The Company is considering whether to purchase such supplies from Goodrich and, if it does, expects to obtain an agreement.

from Goodrich to indemnify the Company from any liability for infringement and/or an agreement from Dow that so long as the Company purchases 80% of its requirements from Dow, Dow will not claim an infringement for use of latex purchased from another supplier to manufacture latex backing.

3.10 The following leases of real and personal property are disclosed:

(a) The following leases of real property used in the Business are disclosed:

- (1) Space 5-A-6, 7, B-2
Atlanta Merchandise Mart
240 Peachtree Street
Atlanta, Georgia

Lessor: The Atlanta Merchandise Mart
Term: Through September 30, 1988

- (2) 6400 West 110th Street
Suite A106
Overland Park, Kansas

Lessor: Public Storage Properties, Ltd.
Term: Through October 31, 1988

- (3) 6812 Variel Avenue
Suite 215
Woodland Hills, California

Lessor: Commerce Park,
Woodland Hills
Term: Through 3/31/89

- (4) Rooms 13-100 to 13-109
Merchandise Mart Plaza
Chicago, Illinois

Lessor: Merchandise Mart Owners
Term: Through 5/31/89

- (5) Space 383
World Trade Center
2050 Stemmons Freeway
Dallas, Texas

Lessor: Dallas Market Center Co.
Term: Through 2/29/88

(6) 200 Market Building
Suite 901
200 S.W. Market Street
Portland, Oregon

Lessor: Property Management Systems,
Managing Agent for the Pru-
dential Insurance Company
Term: Through March 31, 1988

(7) One Metro Plaza
505 Thornall Street
Edison, NJ 08817

Lessor: Sutton Middlesex Associates
Term: Through 10/31/86

(8) 4055 Executive Park Drive
Cincinnati, Ohio 45241

Lessor: Griffith & Jeffers
Term: Through 4/30/89

(b) The following leases of personal property involving payments subsequent to the date of the Agreement of more than \$500,000 are disclosed:

(1) BankBoston Leasing, Inc.
(formerly First Bank Financial)
April 6, 1984

(2) Manufacturers Hanover Leasing Corporation
December 20, 1983

3.11 The following insurance policies with a current policy term are disclosed:

<u>Coverage</u>	<u>Company/Term</u>	<u>Amount of Limit</u>
(a) <u>"All Risk" Coverage</u> <u>Including Fire &</u> <u>Supplemental Perils</u> (Blanket Policy Limits Subject to Changes In Reported Values)		
Real & Personal Property at Scheduled Locations	Protection Mutual/ 11/1/85 to 11/1/88	\$968,369,000

<u>Coverage</u>	<u>Company/Term</u>	<u>Amount of Limit</u>
Business Interruption/ Extra Expense at Scheduled Locations	Protection Mutual/ 11/1/85 to 11/1/88	\$968,369,000
Boiler & Machinery at Scheduled Locations (Includes Business Interruption)	Protection Mutual/ 11/1/85 - 11/1/88	\$968,369,000
Service Interruption	Protection Mutual/ 11/1/85 to 11/1/88	\$ 4,768,000
Unnamed Locations	Protection Mutual/ 11/1/85 to 11/1/88	\$ 1,000,000
Transit	Protection Mutual/ 11/1/85 to 11/1/88	\$ 500,000
(b) Miscellaneous Surety Bonds	CIGNA/ Various	\$ 27,000
(c) <u>Ocean Cargo</u>	Sun Insurance Co./ 1/25/70 - Open	\$ 750,000
(d) <u>Directors & Officers Lia- bility</u> (Coverage is for "old" Congoleum and ex- cludes acts after 1/29/80)	National Union/ 1/29/86 to 1/29/87	\$ 15,000,000
(e) <u>Directors & Officers Lia- bility</u> (Coverage is for "new" Congoleum and ex- cludes acts prior to 1/29/80)	National Union/ 1/29/86 - 1/29/87	\$ 15,000,000
(f) <u>Pension Trust Liability</u>	National Union/ 1/29/86 - 1/29/87	\$ 15,000,000
(g) <u>Umbrella & Excess Liability Coverage</u>		
- Congoleum (Excluding BIW)		
* Umbrella (Excess of Liberty Mutual)	Hartford 1/1/86 - 1/1/87	\$ 5,000,000
** Excess Liability (Excess of \$5,000,000)	Cigna 1/1/86 - 1/1/87	\$ 8,500,000
** Excess Liability (Excess of \$13,500,000)	Lexington 2/1/86 - 1/1/87	\$ 5,000,000
* Occurrence		
** Claims Made		

<u>Coverage</u>	<u>Company/Term</u>	<u>Amount of Limit</u>
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** Excess Liability (Excess of \$18,500,000)	CAL Union 3/1/86 - 1/1/87	\$ 1,500,000
** Excess Liability (Excess of \$20,000,000)	Cigna 3/1/86 - 1/1/87	\$ 1,000,000
** Excess Liability (Excess of \$21,000,000)	CAL Union 3/1/86 - 1/1/87	\$ 2,000,000

* Occurrence
** Claims Made

(h) Workers Compensation and
Employers Liability

Workers' Compensation & Employers Liability (Non-Monopolistic States)	Liberty Mutual 1/1/86 - 1/1/87	Statutory \$ 2,000,000
Workers' Compensation & Employers Liability (MA)	Liberty Mutual 1/1/86 - 1/1/87	Statutory \$ 2,000,000
Workers' Compensation & Employers Liability	Liberty Mutual 1/1/86 - 1/1/87	Statutory \$ 2,000,000
<u>Canadian Supplementary Coverage</u>	Liberty Mutual 1/1/86 - 1/1/87	\$ 100,000 (\$100,000 Each Emp. \$100,000 Each Occur. Voluntary Compensation)

(i) Comprehensive General
Liability (Congoleum
excluding BIW)

Liberty Mutual 1/1/86 - 1/1/87	BI/PD Products \$2,000,000 Each Occur. \$4,000,000 Aggregate
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BI/PD All Other
\$2,000,000 Each Occur.
\$4,000,000 Aggregate

Employee Benefits
Liability

Liberty Mutual 1/1/86 - 1/1/87

\$2,000,000 Each Claim
\$4,000,000 Aggregate

(j) Business Auto Policy
(All States except
Texas Owned, Non-Owned
and Hired Vehicles)

Liberty Mutual 1/1/86 - 1/1/87

BI/PD \$2,000,000
Combined Single
Limit Each Occur.

Comprehensive Auto Lia-
bility Policy (Owned,
Non-Owned and Hired
Vehicles in Texas)

Liberty Mutual 1/1/86 - 1/1/87

BI/PD \$2,000,000
Combined Single
Limit Each Occur.

<u>Coverage</u>	<u>Company/Term</u>	<u>Amount of Limit</u>
<u>Congoleum Corporation -</u> <u>Canada Standard Auto</u> <u>Policy</u>	Liberty Mutual 1/1/86 - 1/1/87	Third Party Liability \$2,000,000
<u>Congoleum Corporation -</u> <u>Quebec Auto Insurance</u> <u>Policy</u>	Liberty Mutual 1/1/86 - 1/1/87	Third Party Liability \$2,000,000

(k) Primary Comprehensive
Crime Bond *

Employee Dishonesty	National Union 6/3/85 - 6/3/86	\$ 10,000,000
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Money & Securities
- On Premises
Money & Securities
- Off Premises

Counterfeit Currency

Depositors Forgery

Excess Comprehensive
Crime Bond *

Employee Dishonesty	Federal Insurance 3/1/85 - 3/1/88	\$ 15,000,000
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Continental 6/3/86 - 6/3/87	\$ 10,000,000
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Money & Securities
- On Premises
Money & Securities
- Off Premises

National Union 3/1/85 - 3/1/88	\$ 5,000,000
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Counterfeit Currency

Depositors Forgery

(1) Lawyers Professional
Errors & Omissions

National Union 1/23/86 - 1/23/87	\$ 5,000,000
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* Comprehensive Crime Program currently under negotiation. Final limits, carriers and policy terms subject to revision.

The following is a list of additional policies covering the Company compiled, in part, from information furnished by brokers and carriers. As to all policies listed having policy periods beginning in 1980 and thereafter, the Company believes such list to be accurate in all material respects.

Primary General Liability

<u>Period</u>	<u>Company</u>	<u>Policy Number</u>	<u>Limit</u>
1/1/86 - 1/1/87	Liberty Mutual Ins. Co	RG1-612-004157-046	\$2,000,000/4,000,000
1/1/85 - 1/1/86	Liberty Mutual Ins. Co	LGI-641-004051-045	1,000,000 CSL
1/1/84 - 1/1/85	Liberty Mutual Ins. Co	LGI-641-004081-044	1,000,000 CSL
1/1/83 - 1/1/84	Liberty Mutual Ins. Co	LGI-641-004051-043	1,000,000 CSL
1/1/82 - 1/1/83	Liberty Mutual Ins. Co	LGI-641-004051-042	1,000,000 CSL
1/1/81 - 1/1/82	Liberty Mutual Ins. Co	LGI-641-004051-041	1,000,000 CSL
1/1/80 - 1/1/81	Liberty Mutual Ins. Co	LGI-641-004051-040	1,000,000 CSL
1/1/79 - 1/1/80	Liberty Mutual Ins. Co	LGI-641-004051-049	1,000,000 CSL
1/1/78 - 1/1/79	Liberty Mutual Ins. Co	LGI-641-004051-048	1,000,000 CSL
1/1/77 - 1/1/78	Liberty Mutual Ins. Co	LGI-641-004051-047	1,000,000 CSL
3/1/76 - 1/1/77	Liberty Mutual Ins. Co	LGI-641-004051-046	1,000,000 CSL
1/1/75 - 3/1/76	Empls. Ins. of Wausau	0526-00-084282	1,000,000 CSL
1/1/74 - 1/1/75	Empls. Ins. of Wausau	0525-00-084282	1,000,000 CSL
1/1/73 - 1/1/74	Empls. Ins. of Wausau	0524-00-084282	1,000,000 CSL
1/1/72 - 1/1/73	Liberty Mutual Ins. Co	LGI-632-004138-042	100,000/500,000
			100,000/100,000
1/1/71 - 1/1/72	Liberty Mutual Ins. Co	LGI-632-004138-041	100,000/500,000
			100,000/100,000
1/1/70 - 1/1/71	Liberty Mutual Ins. Co	LGI-632-004138-040	100,000/500,000
			100,000/100,000
1/1/69 - 1/1/70	Liberty Mutual Ins. Co	LGI-632-004138-049	100,000/500,000
			100,000/100,000
1/1/68 - 1/1/69	Liberty Mutual Ins. Co	LGI-632-004138-048	100,000/500,000
			100,000/100,000
1/1/67 - 1/1/68	Liberty Mutual Ins. Co	LGI-632-004138-047	100,000/500,000
			100,000/100,000
1/1/66 - 1/1/67	Liberty Mutual Ins. Co	LGI-632-004138-046	100,000/500,000
			100,000/100,000
1/1/65 - 1/1/66	Liberty Mutual Ins. Co	LGI-632-004138-045	100,000/500,000
			100,000/100,000
1/1/64 - 1/1/65	Liberty Mutual Ins. Co	LGI-632-004138-044	100,000/500,000
			100,000/100,000
1/1/63 - 1/1/64	Liberty Mutual Ins. Co	LGI-632-004138-043	100,000/500,000
			100,000/100,000
1/1/62 - 1/1/63	Liberty Mutual Ins. Co	LGI-632-004138-042	100,000/500,000
			50,000/100,000
1/1/61 - 1/1/62	Liberty Mutual Ins. Co	LGI-632-004138-041	100,000/500,000
			50,000/100,000
1/1/60 - 1/1/61	Liberty Mutual Ins. Co	LGI-632-004138-040	100,000/500,000
			50,000/100,000
1/1/59 - 1/1/60	Liberty Mutual Ins. Co	LP-6032-900078-39	100,000/500,000
			50,000/100,000
1/1/58 - 1/1/59	Liberty Mutual Ins. Co	LP-6032-900078-38	100,000/500,000
			50,000/100,000
1/1/57 - 1/1/58	Liberty Mutual Ins. Co	LP-6032-900078-37	100,000/500,000
			50,000/100,000
1/1/56 - 1/1/57	Liberty Mutual Ins. Co	LP-24-692115-56	100,000/500,000
			50,000/100,000
1/1/55 - 1/1/56	Liberty Mutual Ins. Co	LP-24-914417-55	100,000/500,000
			50,000/100,000

SECTION II - UMBRELLA LIABILITY HISTORY

1985 Umbrella

<u>Layer</u>	<u>Period</u>	<u>Company</u>	<u>Policy Number</u>	<u>Participatio</u>
5,000,000 xa Primary	01/01/85-01/01/86	CIGNA	XBC155083	100 %
10,000,000 xa	01/01/85-01/01/86	CIGNA	XBC155083	60 %
5,000,000	01/01/85-01/01/86	Transit Cas.	SCU956652	40 %
15,000,000 xa	01/01/85-01/01/86	Western Employers	EX10-0185-20348	33 %
15,000,000	01/01/85-01/01/86	Wausau	573600102319	33 %
	01/01/85-01/01/86	Intl. Surplus Lines	XSI10017	34 %
20,000,000 xa	01/01/85-01/01/86	London	5736-02-102319	35 %
30,000,000	01/01/85-01/01/86	Intl Surplus Lines	XSI10018	50 %
	01/01/85-01/01/85	Integrity	XL207970	15 %
25,000,000 xa	01/01/85-01/01/86	U.S. Fire	3490018299	56 %
50,000,000	01/01/85-01/01/86	CIGNA	Binder	
25,000,000 xa	01/01/85-01/01/86	MOAC	EXC102428	40 %
75,000,000	01/01/85-01/01/86	U.S. Fire	H02317	20 %
	01/01/85-01/01/86	Wausau	XBC155083	20 %
	01/01/85-01/01/86	Colonia	85-L-116/01	20 %

1984 Umbrella

<u>Layer</u>	<u>Period</u>	<u>Company</u>	<u>Policy Number</u>	<u>Participatio:</u>
5,000,000 xs Primary	01/01/84-01/01/85	Granite St.	64840070	100 %
5,000,000 xs 5,000,000	01/01/84-01/01/85	Transit Cas.	SCU956652	100 %
10,000,000 xs	01/01/84-01/01/85	Integrity	XL207970	10 %
10,000,000	01/01/84-01/01/85	Midland	XL770107	30 %
	01/01/84-01/01/85	Protec. Nat.	XUB1807281	60 %
5,000,000 xs 20,000,000	01/01/84-01/01/85	Transit Cas.	SCU956653	100 %
55,000,000 xs	01/01/84-01/01/85	Midland	XL770103	18.2%
25,000,000	01/01/84-01/01/85	Integrity	XL207970	9.1%
	01/01/84-01/01/85	Gibraltar	GMX02545	9.1%
	01/01/84-01/01/85	Twin City	TXS103545	9.1%
	01/01/84-01/01/85	Fire		
	01/01/84-01/01/85	Transport	TEL900359	18.2%
	01/01/84-01/01/85	Highlands	SR22005	18.2%
	01/01/84-01/01/85	AIU	75103173	18.2%
20,000,000 xs	01/01/84-01/01/85	Gibraltar	GMX02546	50 %
80,000,000	01/01/84-01/01/85	Twin City	TXS103545	20 %
	01/01/84-01/01/85	Fire		
	01/01/84-01/01/85	Amer. Cent.	CC015852	5 %
	01/01/84-01/01/85	Emp. Mutual	MM073526	25 %

1983 Umbrella

<u>Layer</u>	<u>Period</u>	<u>Company</u>	<u>Policy Number</u>	<u>Participation</u>
5,000,000 xs Primary	01/01/83-01/01/84	Emps Vaseau	573400200275	100 %
5,000,000 xs 5,000,000	01/01/83-01/01/84	Transit Cas.	SCU956394	100 %
10,000,000 xs	01/01/83-01/01/84	London	707/FULD85565	50 %
10,000,000	01/01/83-01/01/84	First State	934313	50 %
5,000,000 xs 20,000,000	01/01/83-01/01/84	Transit Cas.	SCU956395	100 %
55,000,000 xs	01/01/83-01/01/84	Midland	XL748705	18.2%
25,000,000	01/01/83-01/01/84	Gibraltar	GMX02027	9.1%
	01/01/83-01/01/84	Twin City Fire	TXS102624	9.1%
	01/01/83-01/01/84	Granite St.	64835546	18.2%
	01/01/83-01/01/84	Highlands	SR21696	18.2%
	01/01/83-01/01/84	AIU	75103280	9.1%
	01/01/83-01/01/84	Emp. Mutual Des Moines	MMO73326	7.3%
	01/01/83-01/01/84	Integrity	XL207014	
20,000,000 xs	01/01/83-01/01/84	Gibraltar	GNX02028	50 %
80,000,000	01/01/83-01/01/84	AIU	74103280	25 %
	01/01/83-01/01/84	Twin City Fire	TXS102624	25 %

1982 Umbrella

<u>Layer</u>	<u>Period</u>	<u>Company</u>	<u>Policy Number</u>	<u>Participation</u>
5,000,000 xs Primary	01/01/82-01/01/83	Emps Wassau	573300200275	100 %
5,000,000 xs 5,000,000	01/01/82-01/01/83	Transit Cas.	SCU956122	100 %
10,000,000 xs	01/01/82-01/01/83	London	707/FUL084656	40 %
10,000,000	01/01/82-01/01/83	Empl. Mutual	MM073047	10 %
	01/01/82-01/01/83	First State	933238	50 %
5,000,000 xs 20,000,000	01/01/82-01/01/83	Aetna C&S	OXN3267WCA	100 %
55,000,000 xs	01/01/82-01/01/83	Emp. Mutual	MM073048	7.2%
25,000,000	01/01/82-01/01/83	Aetna C&S	01XN3268WCA	9.1%
	01/01/82-01/01/83	AIU	75102594	9.1%
	01/01/82-01/01/83	Trans. Cas.	SCU956123	18.2%
	01/01/82-01/01/83	Midland	XL724778	9.1%
	01/01/82-01/01/83	Integrity	XL203766	10.9%
	01/01/82-01/01/83	Gibraltar	GMX01497	9.1%
	01/01/82-01/01/83	Old Repub.	OZX11787	9.1%
	01/01/82-01/01/83	Granite St.	64825348	9.1%
	01/01/82-01/01/83	Highlands	SR21396	9.1%
20,000,000 xs	01/01/82-01/01/83	Aetna C&S	01XN3269WCA	50 %
80,000,000	01/01/82-01/01/83	Gibraltar	GMX01498	25 %
	01/01/82-01/01/83	Old Repub.	OZX11787	25 %

1981 Umbrella

<u>Layer</u>	<u>Period</u>	<u>Company</u>	<u>Policy Number</u>	<u>Participatic</u>
5,000,000 xs Primary	01/01/81-01/01/82	Holland Am.	R83678	100 %
5,000,000 xs 5,000,000	01/01/81-01/01/82	Trans. Cas.	SCU955786	100 %
10,000,000 xs	01/01/81-01/01/82	London	FUL083811	40 %
10,000,000	01/01/81-01/01/82	First State	930852	50 %
	01/01/81-01/01/82	Emp. Mutual Des Moines	MM071653	10 %
5,000,000 xs 20,000,000	01/01/81-01/01/82	Aetna C&S	01XN2879WCA	100 %
55,000,000 xs	01/01/81-01/01/82	Transit Cas.	SCU955427	18.2%
25,000,000	01/01/81-01/01/82	Midland	XL723759	9.1%
	01/01/81-01/01/82	Integrity	XL201522	10.9%
	01/01/81-01/01/82	Gibraltar	GMX00856	9.1%
	01/01/81-01/01/82	Old Republic	OZX11607	9.1%
	01/01/81-01/01/82	Aetna C&S	0HN2878WCA	9.1%
	01/01/81-01/01/82	Granite St.	64815121	9.1%
	01/01/81-01/01/82	Highlands	SR21208	9.1%
	01/01/81-01/01/82	AIU	75102500	9.1%
	01/01/81-01/01/82	Emp. Mutual Des Moines	MM071654	7.2%
20,000,000 xs	01/01/81-01/01/82	Aetna C&S	OXN2879WCA	50 %
80,000,000	01/01/81-01/01/82	Gibraltar	GMX00857	25 %
	01/01/81-01/01/82	Old Rep.	OZX11607	25 %

1980 Umbrella

<u>Layer</u>	<u>Period</u>	<u>Company</u>	<u>Policy Number</u>	<u>Participatio</u>
5,000,000 xs Primary	01/01/80 - 01/01/81	Mission	M856066	100 %
5,000,000 xs 5,000,000	01/01/80 - 01/01/81	London	11-2229680	100 %
10,000,000 xs	01/01/80 - 01/01/81	Aetna C & S	01XN2455WCA	40 %
10,000,000	01/01/80 - 01/01/81	First State	929216	50 %
	01/01/80 - 01/01/81	Emp. Mutual	MM071201	10 %
5,000,000 xs 20,000,000	01/01/80 - 01/01/81	Gibraltar	GNX00451	100 %
55,000,000 xs	01/01/80 - 01/01/81	Transit Cas.	SCU955427	18.1%
25,000,000	01/01/80 - 01/01/81	Midland	XL706593	9.1%
	01/01/80 - 01/01/81	Excess	EL10355	3.6%
	01/01/80 - 01/01/81	Integrity	XL201439	10.9%
	01/01/80 - 01/01/81	Gibraltar	GNX00452	9.1%
	01/01/80 - 01/01/81	Puritan	ML652264	9.1%
	01/01/80 - 01/01/81	Aetna C & S	01XN2456WCA	9.1%
	01/01/80 - 01/01/81	Granite St.	61801880	9.1%
	01/01/80 - 01/01/81	Emp. Mutual	MM071202	7.3%
	01/01/80 - 01/01/81	Highlands	SR20943	9.1%
	01/01/80 - 01/01/81	AIU	75101790	5.5%

1979 Umbrella

<u>Layer</u>	<u>Period</u>	<u>Company</u>	<u>Policy Number</u>	<u>Participatio</u>
5,000,000 xs Primary	04/01/77 - 01/01/80	London	881/UJL0389	100 %
5,000,000 xs 5,000,000	01/01/79 - 01/01/80	London	881/WLT121	100 %
10,000,000 xs	01/01/79 - 01/01/80	Emp. Mutual	MM070606	10 %
10,000,000	01/01/79 - 01/01/80	First State	927497	40 %
	01/01/79 - 01/01/80	Aetna C & S	01XN2061WCA	50 %
5,000,000 xs 20,000,000	01/01/79 - 01/01/80	Prudential Re	DXCDX1356	100 %
55,000,000 xs	01/01/79 - 01/01/80	Granite	61790998	9.1%
25,000,000	01/01/79 - 01/01/80	State Mutual	MM070607	7.2%
	01/01/79 - 01/01/80	Marine Prudential Re	DXCDX1357	9.1%
	01/01/79 - 01/01/80	Puritan	ML651558	9.1%
	01/01/79 - 01/01/80	Aetna C & S	01XN2062WCA	9.1%
	01/01/79 - 01/01/80	Highlands	SR20789	9.1%
	01/01/79 - 01/01/80	Midland	XL160344	14.5%
	01/01/79 - 01/01/80	Trans. Cas.	SCU955066	18.2%
	01/01/79 - 01/01/80	Integrity	XL200500	9.1%
	01/01/79 - 01/01/80	AIU	75100996	5.5%

1978 Umbrella

<u>Layer</u>	<u>Period</u>	<u>Company</u>	<u>Policy Number</u>	<u>Participatio</u>
5,000,000 xs Primary	04/01/77 - 01/01/80	London	881/UJL0389	100 %
5,000,000 xs 5,000,000	01/01/78 - 01/01/79	London	881/WKT05	100 %
10,000,000 xs	01/01/78 - 01/01/79	First State	925946	40 %
10,000,000	01/01/78 - 01/01/79	Aetna C & S	0XHN1631WC4	50 %
	01/01/78 - 01/01/79	London	881/WK015	10 %
5,000,000 xs 20,000,000	01/01/78 - 01/01/79	Prudential Re	DXCDX0588	100 %
55,000,000 xs 25,000,000	01/01/78 - 01/01/79	Granite State	75-100034	5.4%
	01/01/78 - 01/01/79	Mutual Marine	MH070018	3.6%
	01/01/78 - 01/01/79	Prudential Re	DXCDX0659	9.1%
	01/01/78 - 01/01/79	Puritan	ML650447	9.1%
	01/01/78 - 01/01/79	Aetna C & S	01XN1632WCA	9.1%
	01/01/78 - 01/01/79	Highlands	SR20482	9.1%
	01/01/78 - 01/01/79	Federal	7932-98-47	9.1%
	01/01/78 - 01/01/79	London	WK0161	4.1%
	01/01/78 - 01/01/79	Midland	XL148361	41.3%

1977 Umbrella

<u>Layer</u>	<u>Period</u>	<u>Company</u>	<u>Policy Number</u>	<u>Participatio</u>
5,000,000 xs Primary	04/01/76 - 04/01/77	Mission	M831963	100 %
5,000,000 xs 5,000,000	04/01/76 - 04/01/77	London	C/N WHL551	100 %
5,000,000 xs Primary	04/01/77 - 01/01/80	London	881/UJL0389	100 %
5,000,000 xs 5,000,000	04/01/77 - 01/01/78	London	881/WJU55	100 %
10,000,000 xs	01/01/77 - 01/01/78	First State	924233	40 %
10,000,000	01/01/77 - 01/01/78	Aetna C & S	01XN1221WCA	50 %
	01/01/77 - 01/01/78	London	881/UJL0056	10 %
5,000,000 xs 20,000,000	01/01/77 - 01/01/78	Granite State	SCLD8094946	100 %
55,000,000 xs 25,000,000	01/01/77 - 01/01/78	Prudential Re	DXCDX0067	15.7%
	01/01/77 - 01/01/78	Granite State	SCLD8094047	8.7%
	01/01/77 - 01/01/78	London	881/UJL0057	12.7%
	01/01/77 - 01/01/78	Midland	XL15258	40.3%
	01/01/77 - 01/01/78	Federal	79329847	8.7%
	01/01/77 - 01/01/78	Aetna C & S	01XN1222WCA	8.7%
	01/01/77 - 01/01/78	Highlands	BR20227	5.2%

1976 Umbrella

<u>Layer</u>	<u>Period</u>	<u>Company</u>	<u>Policy Number</u>	<u>Participatio</u>
10,000,000 xs Primary	01/01/75 - 04/01/76	Mission	M81757	100 %
5,000,000 xs Primary	04/01/76 - 04/01/77	Mission	M831063	100 %
5,000,000 xs 5,000,000	04/01/76 - 04/01/77	London	C/N WIL551	100 %
10,000,000 xs	01/01/76 - 01/01/77	Stonewall	36000045	50 %
10,000,000	01/01/76 - 01/01/77	Aetna C & S	01XN904WCA	50 %
5,000,000 xs 20,000,000	01/01/76 - 01/01/77	American Home	SCLE80-65428	100 %
55,000,000 xs	01/12/76 - 01/01/77	London	881/UHL0036	8.8%
25,000,000	01/01/76 - 01/01/77	Prudential		
		Re	DXC901037	9.1%
	01/01/76 - 01/01/77	Midland	XL145821	54.0%
	01/01/76 - 01/01/77	Aetna C & S	01XN905WCA	9.1%
	01/01/76 - 01/01/77	American		
		Home	SCLE80-65427	9.1%
	01/01/76 - 01/01/77	Highlands	BR10638	9.1%

1975 Umbrella

<u>Layer</u>	<u>Period</u>	<u>Company</u>	<u>Policy Number</u>	<u>Participatio</u>
10,000,000 xs Primary	01/01/75 - 04/01/76	Mission	M81757	100 %
10,000,000 xs	02/16/73 - 01/01/76	American Re	M0691511	50 %
10,000,000	02/16/73 - 01/01/76	Uniguard	10682	50 %
5,000,000 xs 20,000,000	02/16/73 - 01/01/76	INA	XCP3904	100 %
55,000,000 xs	10/12/72 - 01/01/76	Midland	1110170044727	47.2%
25,000,000	10/12/72 - 01/12/76	St. Paul	590XA0834	18.5%
	10/12/72 - 01/01/76	Aetna C & S	01XN326WCA	9.3%
	10/12/72 - 01/01/76	Fireman's Fund	XLX1202504	2.0%
	10/12/72 - 01/01/76	American Home	CE3380176	4.0%
	10/12/72 - 01/01/76	Highlands	SR10276	2.0%
	12/17/73 - 01/01/76	INA	XCP3956	6.8%
	12/17/73 - 01/01/76	CNA	RDX8937036	6.9%

1974 Umbrella

<u>Layer</u>	<u>Period</u>	<u>Company</u>	<u>Policy Number</u>	<u>Participation</u>
10,000,000 xs Primary	02/16/73 - 01/01/75	CNA	RDD8065433	100 %
10,000,000 xs	02/16/73 - 01/01/76	American Re	80691611	50 %
10,000,000	02/16/73 - 01/01/76	Uniguard	10682	50 %
5,000,000 xs 20,000,000	02/16/73 - 01/01/76	INA	XCP3904	100 %
55,000,000 xs	10/12/72 - 01/01/76	Midland	1110170044727	48.7%
25,000,000	10/12/72 - 01/01/76	St. Paul	590XA0834	19.2%
	10/12/72 - 01/01/76	Aetna C & S	01371326VCA	9.6%
	10/12/72 - 01/01/76	Fireman's Fund	XIX1202504	2.1%
	10/12/72 - 01/01/76	American Home	CE3580175	4.1%
	10/12/72 - 01/01/76	Highlands	SR10276	2.1%
	12/17/73 - 01/01/76	INA	XCP3956	7.0%
	12/17/73 - 01/01/76	CNA	RDX8937036	7.2%

1973 Umbrella

<u>Layer</u>	<u>Period</u>	<u>Company</u>	<u>Policy Number</u>	<u>Participation</u>
10,000,000 xs Primary	02/16/73 - 01/01/75	CNA	RDU8065433	100 %
10,000,000 xs	02/16/73 - 01/01/76	American Re	M0691611	50 %
10,000,000	02/16/73 - 01/01/76	Uniguard	10682	50 %
5,000,000 xs 20,000,000	02/16/73 - 01/01/76	INA	XCP3904	100 %
55,000,000 xs	10/12/72 - 01/01/76	Midland	1110170044727	48.7%
25,000,000	10/12/72 - 01/01/76	St. Paul	590XA0834	19.2%
	10/12/72 - 01/01/76	Aetna C & S	01XN326WCA	9.6%
	10/12/72 - 01/01/76	Fireman's Fund	XIX1202504	2.1%
	10/12/72 - 01/01/76	American Home	CE3380176	4.1%
	10/12/72 - 01/01/76	Highlands	SR10276	2.1%
	12/17/73 - 01/01/76	INA	XCP3956	7.0%
	12/17/73 - 01/01/76	CNA	RDX8937036	7.2%

CONGOLEUM CORPORATION

RESILIENT

WORKERS' COMPENSATION & EMPLOYER'S LIABILITY

Workers' Compensation & Employer's Liability

<u>Period</u>	<u>Company</u>	<u>Policy Number</u>	<u>Employer's Liability</u>	<u>Limit</u>
1/1/86 - 1/1/87	Liberty Mutual Ins. Co.	WC2-612-004157-016	All States	\$2,000,00
		WC1-612-004157-026	MA	2,000,00
		WC2-612-004157-156	CA	2,000,00
		WC1-612-004157-096	Canada	2,000,00
1/1/85 - 1/1/86	Liberty Mutual Ins. Co.	WC2-612-004157-015	All States	500,00
		WC1-612-004157-025	MA	500,00
		WC2-612-004157-035	CA	500,00
		WC1-612-004157-095	Canada	500,00
1/1/84 - 1/1/85	Liberty Mutual Ins. Co.	WC2-612-004157-014	All States	500,00
		WC1-612-004157-024	MA	500,00
		WC2-612-004157-034	CA	500,00
		WC1-612-004157-094	Canada	500,00
1/1/83 - 1/1/84	Liberty Mutual Ins. Co.	WC2-612-004157-013	All States	100,00
		WC1-612-004157-023	MA	100,00
		WC2-612-004157-033	CA	500,00
		WC1-612-004157-093	Canada	100,00
1/1/82 - 1/1/83	Liberty Mutual Ins. Co.	WC2-612-004157-012	All States	100,00
		WC1-612-004157-022	MA	100,00
		WC2-612-004157-032	CA	500,00
		WC1-612-004157-092	Canada	100,00
1/1/81 - 1/1/82	Liberty Mutual Ins. Co.	WC2-612-004157-011	All States	100,00
		WC1-612-004157-021	MA	100,00
		WC2-612-004157-031	CA	500,00
		WC1-612-004157-091	Canada	100,00
1/1/80 - 1/1/81	Liberty Mutual Ins. Co.	WC2-641-004051-010	All States	100,00
		WC1-641-004051-020	MA	100,00
		WC2-641-004051-030	CA	500,00
		WC1-612-004157-090	Canada	100,00
1/1/79 - 1/1/80	Liberty Mutual Ins. Co.	WC2-641-004051-019	All States	100,00
		WC1-641-004051-029	MA	100,00
		WC2-641-004051-039	CA	500,00
2/1/78 - 2/1/79	Liberty Mutual Ins. Co.	WC2-641-004051-018	All States	100,00
		WC1-641-004051-028	MA	100,00
		WC2-641-004051-038	CA	500,00
1/1/77 - 1/1/78	Liberty Mutual Ins. Co.	WC2-641-004051-017	All States	100,00
		WC1-641-004051-027	MA	100,00
		WC1-641-004051-037	CA	500,00
3/1/76 - 1/1/77	Liberty Mutual Ins. Co.	WC2-641-004051-016	All States	100,00
		WC1-641-004051-026	MA	100,00
		WC2-641-004051-036	CA	500,00
1/1/75 - 3/1/76	Employers Ins. of Wausau	0514-000-84282	All States	100,00
1/1/74 - 1/1/75	Employers Ins. of Wausau	0514-000-84282	All States	100,00
1/1/73 - 1/1/74	Employers Ins. of Wausau	0514-000-84282	All States	100,00
1/1/72 - 1/1/73	Liberty Mutual Ins. Co.	WC1-632-004138-022	All States	100,00
1/1/71 - 1/1/72	Liberty Mutual Ins. Co.	WC1-632-004138-021	All States	100,00
1/1/70 - 1/1/71	Liberty Mutual Ins. Co.	WC1-632-004138-020	All States	100,00
1/1/69 - 1/1/70	Liberty Mutual Ins. Co.	WC1-632-004138-029	All States	100,00
1/1/68 - 1/1/69	Liberty Mutual Ins. Co.	WC1-632-004138-028	All States	500,00
1/1/67 - 1/1/68	Liberty Mutual Ins. Co.	WC1-632-004138-027	All States	500,00
1/1/66 - 1/1/67	Liberty Mutual Ins. Co.	WC1-632-004138-026	All States	500,00
1/1/65 - 1/1/66	Liberty Mutual Ins. Co.	WC1-632-004138-025	All States	500,00
1/1/64 - 1/1/65	Liberty Mutual Ins. Co.	WC1-632-004138-024	All States	500,00

Workers' Compensation & Employer's Liability

<u>Period</u>	<u>Company</u>	<u>Policy Number</u>	<u>Employer's</u>	<u>Liability Limit</u>
1/1/63 - 1/1/64	Liberty Mutual Ins. Co.	WC1-632-004138-023	All States	500,00
1/1/62 - 1/1/63	Liberty Mutual Ins. Co.	WC1-632-004138-022	All States	500,00
1/1/61 - 1/1/62	Liberty Mutual Ins. Co.	WC1-632-004138-021	All States	500,00
		WC1-632-004138-011	NJ	500,00
1/1/60 - 1/1/61	Liberty Mutual Ins. Co.	WC1-632-004138-020	All States	500,00
		WC1-632-004138-010	NJ	500,00
1/1/59 - 1/1/60	Liberty Mutual Ins. Co.	WC-6032-900076-39	All States	500,00
		WC-6032-900077-39	NJ	500,00
1/1/58 - 1/1/59	Liberty Mutual Ins. Co.	WC-6032-900076-38	All States	500,00
		WC-6032-900077-38	NJ	500,00
1/1/57 - 1/1/58	Liberty Mutual Ins. Co.	WC-6032-900077-37	All States	500,00
		WC-6032-900077-37	NJ	500,00
1/1/56 - 1/1/57	Liberty Mutual Ins. Co.	WC-24-692271-56	All States	500,00
		FWC-24-692272-56	NJ	500,00
1/1/55 - 1/1/56	Liberty Mutual Ins. Co.	WC-24-914414-55	All States	500,00
		FWC-24-914461-55	NJ	500,00

NOTE: Liberty Mutual's records indicate continuity of coverage back to 1926.

3.13 The following Pension Plans and employee welfare benefit plans are disclosed:

Congoleum Corporation Retirement Plan for Salaried Employees of the Resilient Flooring Division

Congoleum Corporation Retirement Plan for Wage Roll Employees of the Resilient Flooring Division

Basic and Contributory Life/Accidental Death & Dismemberment Insurance (Prudential Insurance Company)

Dependent Life Insurance (fully contributory) (Manhattan Life Insurance)

Congoleum Corporation Group Automobile Insurance Program for Executive Resource Group (Prudential Property and Casualty Insurance Company)

Business Travel Accident Insurance (Insurance Company of North America)

Personal Accident Insurance (fully contributory) (Insurance Company of North America)

Accident & Sickness Insurance (Prudential Insurance Company)

Salary Continuance for Short-Term Disability (Self-insured)

Long Term Disability (Mutual Benefit)

Comprehensive Medical Insurance (Prudential Insurance Company)

Congoleum Corporation Supplemental Medical Plan for Executive Resource Group (Prudential Insurance Company)

Wellness Program (Self-insured; Administrative Services-Prudential Insurance Company)

Vacation, Holiday, and Sick Days (Self-insured)

Employee Educational Assistance (Self-insured)

Congoleum Corporation Educational Loan Program for Executive Resource Group

Basic Hospital Surgical and Medical Insurance (Marcus Hook Hourly Employees only) (Prudential Insurance Company)

Teamsters Pension Trust Fund of Philadelphia and Vicinity - Multi-Employer Plan

3.14(a)(i) Agreements with the following employees are disclosed:

John A. Bielaus
Dallas R. Herold
Frank H. McKinney
Harry F. Pearson

3.14(a)(ii) The following plans are disclosed:

Congoleum Corporation Incentive Compensation Plan for Corporate Executives

Congoleum Corporation Incentive Compensation Plan for
~~Operating Unit Executives~~

Congoleum Corporation Supplemental Executive Retirement Program for the Executive Resource Group.

3.14(a)(iii) The following instrument and related obligations are disclosed:

Lease Agreement dated 4/6/84 between BancBoston Leasing, Inc. and Congoleum Corporation, as amended.

3.15 The matters set forth in the attached schedule 3.15 are disclosed. In addition, there may be proceedings and other matters relating to income taxes with respect to the Business. These are the subject of the representations made in Section 3.16 of the Merger Agreement and the agreement of indemnification set forth in Section 5.04(e) of the Merger Agreement.

SCHEDULE 3.15

Maine Asbestos Cases

Beginning in June, 1982, Congoleum Corporation ("Congoleum")* was joined as a third-party defendant in 69 cases pending in the United States District Court for the District of Maine where damages were sought for asbestos-related disease allegedly contracted by employees of Bath Iron Works Corporation ("BIW") in the course of their employment. The original complaints were filed against various manufacturers of asbestos products (not including Congoleum). Various of the manufacturer-defendants filed third-party actions against Congoleum asserting that the injuries alleged by the original plaintiffs were caused, in part, by exposure to asbestos-containing products manufactured by Congoleum's Resilient Flooring Division ("Resilient") and supplied to BIW. Contribution or indemnification from Congoleum was sought and, under applicable court order, such contribution or indemnification would run in favor of all of the defendants in these cases. The third-party complaints alleged that Congoleum violated its duty to provide products not unreasonably dangerous and to exercise reasonable care in the production and marketing of such products, in that Congoleum allegedly supplied unsafe asbestos-containing products to BIW, failed properly to warn and safeguard others regarding such products, and failed to test such products adequately and to test for substitute products. Congoleum filed answers to the third-party complaints and cross-claims against the other manufacturers seeking contribution or indemnification.

A review of available records of Resilient and BIW indicated that only an extremely small quantity of Resilient's products was supplied to BIW. In late April and early May, 1984, the court granted summary judgment dismissing the claims against Congoleum in five cases which had been scheduled for trial in May of that year. In January, 1985, the court dismissed Congoleum from eight additional cases which had been scheduled for trial in February. In each instance, the court's action in dismissing Congoleum was based on the failure of the third-party plaintiffs to develop any

* References in this Schedule 3.15 to "Congoleum" are to the Company and to its predecessors (including, but not limited to, the Delaware corporation organized in 1984 and known prior to April 18, 1986 as Congoleum Corporation ("1984 Congoleum") and the Delaware corporation organized in 1979 and known prior to June 1, 1984 as Congoleum Corporation ("1979 Congoleum")).

evidence against Congoleum. Five additional cases were dismissed upon discovery that the injured parties had not been employed at BIW.

In September and October, 1985, all remaining third-party actions against Congoleum were voluntarily dismissed without prejudice. Resilient's involvement in the Maine Asbestos Litigation has thus been terminated.

Grael v. Eagle-Picher Indus., Inc.

This case is pending in the Court of Common Pleas of Philadelphia County, Pennsylvania. Plaintiffs are husband and wife. Plaintiff husband's employment history, as alleged in the complaint, includes the installation of "asbestos tile" and work at a shipyard and in other employment where he was exposed to asbestos fibers. The defendants are 18 manufacturers or sellers of asbestos and asbestos products, including Congoleum.

The complaint alleges that plaintiff husband (i) contracted asbestosis as a result of exposure to asbestos products produced or sold by the defendants; (ii) has experienced severe anxiety, hysteria, and fear as a result of his condition and as a result of the knowledge that his family has been exposed to asbestos fibers contained in his work clothing; and (iii) has suffered a loss of the consortium and companionship of his wife and children because of his injuries and because of his fear that his wife and children may contract asbestos-related diseases. Compensatory damages in excess of \$20,000 and punitive damages in excess of \$20,000 are claimed for plaintiff husband. Plaintiff wife claims compensatory and punitive damages in like amounts because of the loss of society, services, and companionship of her husband and as a result of her own exposure to asbestos fibers from her husband's clothing.

The theories of liability asserted in the complaint are (i) negligence and outrageous conduct, (ii) strict liability for defective products, (iii) breach of warranty and (iv) an alleged cause of action in admiralty. The parties are currently engaged in pre-trial discovery.

The Company believes this matter to be adequately insured, except that any award of punitive damages and any award based on intentional wrongdoing may be uninsured. The Company's carrier has reserved its rights under applicable policies based on these exceptions.

Lemme v. Raymark Inds., Inc.

This case is pending in the Court of Common Pleas of Philadelphia County, Pennsylvania. Congoleum was served with the summons and complaint in June, 1985.

Plaintiffs are husband and wife. It is alleged that plaintiff husband worked during the summers of 1964 through 1967 installing floor tiles and was exposed to asbestos during that time. It is further alleged that from 1967 to the present, the plaintiff husband was employed at the Philadelphia Naval Shipyard where he was exposed to asbestos. The defendants are 18 manufacturers or sellers of asbestos and asbestos products, including Congoleum.

The complaint alleges that plaintiff husband (i) contracted asbestos-related diseases including, but not limited to, "mild bilateral pleural thickening and slight calcification of the left hemidiaphragm, consistant (sic) with changes related to asbestos exposure" as a result of exposure to asbestos products produced or sold by the defendants; (ii) has experienced severe anxiety, hysteria, and fear as a result of his condition and as a result of the knowledge that his family has been exposed to asbestos fibers contained in his work clothing; and (iii) has suffered a loss of consortium and companionship of his wife and children because of his injuries and because of his fear that his wife and his children may contract asbestos-related diseases. Compensatory and punitive damages, both in excess of \$20,000, are claimed for plaintiff husband. Plaintiff wife claims compensatory and punitive damages in like amounts because of the loss of society, services, and companionship of her husband and as a result of her own exposure to asbestos fibers from her husband's clothing.

The theories of liability asserted in the complaint are (i) negligence and outrageous conduct, (ii) strict liability for defective products, (iii) breach of warranty, and (iv) an alleged cause of action in admiralty.

The Company believes this matter to be adequately insured, except that any award of punitive damages and any award based on intentional wrongdoing may be uninsured.

Smith v. Armstrong World Indus., Inc.
Smith v. GAF Corp.

These cases were filed in the Court of Common Pleas of Philadelphia County, Pennsylvania in June and August, 1985, respectively. The defendants are various manufacturers of asbestos products. Congoleum was named as a defendant in the Armstrong case and as a third-party defendant in the GAF case. The plaintiffs in both cases are Eugene and Corinthia Smith, husband and wife.

Plaintiff husband alleges that he contracted asbestos-related disease as a result of exposure to asbestos products of the defendants while working at Celotex Corporation. Compensatory and punitive damages, both in excess of \$20,000, are sought. Plaintiff wife seeks damages for loss of consortium. The theories of liability asserted by the plaintiffs are (i) negligence, (ii) strict liability, (iii) breach of implied warranty, and (iv) fraudulent misrepresentations, concealments, and willful omissions by the defendants, individually, jointly, and in conspiracy with each other. The plaintiffs have moved to consolidate the two cases.

On the basis of information to the effect that Congoleum did not supply any asbestos products to plaintiff husband's employer, on January 6, 1986, Congoleum was discontinued as a defendant in the Armstrong case on plaintiff's own motion. GAF Corporation, which filed the third-party complaint against Congoleum in the GAF case, has agreed to move to discontinue Congoleum as a third-party defendant in that case, as well.

Hane v. Fibreboard Corp.

This case is pending in the Superior Court of San Francisco County, California. Plaintiffs are husband and wife suing for compensatory and punitive damages, unspecified in amount, relating to the development of asbestos-related disease by the plaintiff husband. The defendants are various companies alleged to be in the business of "manufacturing, fabricating, designing, assembling, distributing, leasing, buying, selling, inspecting, servicing, repairing, marketing, warranting, and advertising" asbestos products (including Congoleum).

Plaintiffs allege that plaintiff husband was exposed to asbestos during the course of his work as a "floor tile installer." The complaint asserts causes of action for negligence, loss of consortium, breach of warranty, strict liability, enterprise liability, and conspiracy and fraudulent concealment.

Congoleum was served with process in September, 1985. The Company believes this case to be adequately insured, except that any award of punitive damages and any award based on intentional wrongdoing may be uninsured.

Payne v. Fibreboard Corp.

This action was filed in the Superior Court for the State of California (Alameda County) in March, 1986 by Billy Blake Payne and Emma Joyce Payne. The defendants are 39 named corporations (including Congoleum) and Does 1-400, who are alleged to have mined asbestos or manufactured or distributed asbestos-containing products. The complaint alleges that plaintiff Billy Blake Payne

was exposed to asbestos when he worked at the Bechtel Naval Shipyard in 1943-1944 and when employed as a carpenter and millwright in San Francisco, Nevada, Arizona, and Colorado during 1946-1985, and that, as a result of his exposure, he contracted asbestosis and other pulmonary diseases. The complaint asserts negligence, loss of consortium, breach of warranties, strict liability in tort, enterprise liability, conspiracy, and fraudulent concealment. It seeks unspecified damages for medical and related expenses, lost earnings, lost earning capacity, other economic losses, and punitive damages. The Company believes the nature of Mr. Payne's alleged occupational exposure makes it unlikely that his condition was the result of exposure to any product manufactured by Congoleum. Accordingly, the Company plans to file a motion for summary judgment as soon as practicable.

The Company believes this case to be adequately insured, except that any award of punitive damages and any award based on intentional wrongdoing may be uninsured.

Dowling v. Pittsburgh Corning Corp.

This case is pending in the Superior Court of Camden County, New Jersey. The defendants are various companies identified as "miners, manufacturers, processors, importers, converters, compounders or merchants of asbestos and asbestos-containing materials" (including Congoleum). It is alleged that plaintiff's decedent was employed by numerous plumbing and heating companies and was also self-employed and that, at each of said employments, decedent was exposed to asbestos products of the defendants. Unspecified damages are claimed on the basis of negligence, breach of express and implied warranties, strict liability, willful and wanton misconduct, and misrepresentation. The complaint also includes counts for loss of consortium and wrongful death.

Congoleum was served with process in this case on October 23, 1985. The Company believes this case to be adequately insured, except that any award of punitive damages and any award based on intentional wrongdoing may be uninsured.

Domco Indus. Ltd. v. Armstrong Cork Canada Ltd.

In March, 1976, Congoleum entered into a settlement with Armstrong Cork Company covering patent infringement actions against Armstrong, both in the United States and Canada. Domco Industries, Ltd., a Canadian licensee of the Company, was a co-plaintiff in the Canadian action but did not participate in the settlement. Instead, it elected to continue the infringement action against Armstrong. Pursuant to an indemnification agreement between Congoleum and Armstrong, Congoleum became responsible for any damages assessed against Armstrong in favor of Domco and for Armstrong's attorneys' fees and expenses of suit.

Trial of the liability issue in this action was held in the Federal Court of Canada in March, 1982. The court entered judg-

ment to the effect that Domco is entitled to damages for sales lost between July 25, 1967 and March 9, 1976 as a result of Armstrong's infringement of Congoleum's chemical embossing patents. Appeals of that judgment were dismissed successively by the Federal Court of Appeal and by the Supreme Court of Canada.

A separate reference to determine the amount of damages to be awarded to Domco was held before a Federal Court referee in May and June, 1983. In the final version of its claim for damages as submitted during the reference, Domco claimed (i) \$6,104,000 (Canadian) representing its loss of income on sales it would have made but for Armstrong's infringement, plus (ii) \$705,000 (Canadian) representing the loss of income on sales lost by Domco's distributor-subsiidiaries, plus (iii) \$300,000 (Canadian) representing "additional financial costs" incurred by reason of the loss of income. In the original version of its claim, Domco also claimed interest which, on varying theories, ranged from \$1,365,397 (Canadian) to \$18,451,000 (Canadian). Since there are substantial legal issues involved in the question of whether pre-judgment interest may be recovered on damages for patent infringement in Canada and the question of whether a parent corporation may recover damages suffered by its subsidiary, it was agreed at the outset of the reference that these issues would be submitted to the Federal Court Judge after the referee makes his findings of fact on the various damage issues.

In November, 1983, the referee issued his report, recommending to the Federal Court of Canada that Domco be awarded \$4,594,000 (Canadian) on claim (i), \$228,000 (Canadian) on claim (iii), and, subject to judicial determination of the legal issues, \$625,000 (Canadian) on claim (ii). The referee also recommended that Domco be awarded \$20,000 (Canadian) as costs.

The referee's report was appealed to the Federal Court, and argument on the appeal, as well as the issues of pre-judgment interest and damages suffered by subsidiaries, was heard in February, 1984. On May 20, 1986, the court rendered its decision essentially accepting the referee's report with respect to claims (i) and (iii), subject to certain minor reductions. With respect to claim (ii), the court determined that Domco is not entitled to recover damages suffered by its subsidiaries. Based on the court's decision, the total damages awarded to Domco would be approximately \$4.8 million (Canadian).

The court has asked for reargument on the pre-judgment interest issue. That argument has been scheduled for July 29, 1986.

Although there is some conflict among the authorities on the question of pre-judgment interest, counsel representing Congoleum believes that Congoleum's position on that issue is sound. Upon entry of a final judgment, appeals may be taken to the Federal Court of Appeal. Counsel is of the view that there are substantial issues for appeal which may result in a reduction of the May 20, 1986 damage award.

CERTIFICATE OF AMENDMENT
OF
RESTATED CERTIFICATE OF INCORPORATION
OF CONGOLEUM INDUSTRIES, INC.

Pursuant to Sections 228 and 242 of the Delaware General Corporation Law, Congoleum Industries, Inc. (hereinafter referred to as the "Company"), a corporation organized and existing under and by virtue of the Delaware General Corporation Law, does hereby certify:

FIRST: That the Restated Certificate of Incorporation of the Company is hereby amended as follows:

1. ARTICLE FIRST of the Restated Certificate of Incorporation of the Company is hereby amended to read in its entirety as follows:

"FIRST: The name of the Corporation is
BIW Industries, Inc."

SECOND: That the board of directors of the Company duly adopted a resolution setting the proposed amendment to the Restated Certificate of Incorporation of the Company set forth above in Article FIRST, declaring said amendment to be advisable.

THIRD: That, in lieu of a meeting and vote of stockholders, the requisite number of stockholders have given written consent to said amendment in accordance with the provisions of Section 228 of the General Corporation Law of the State of Delaware and written consent has been filed with the Company.

FOURTH: That said amendment was duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

FIFTH: That the capital of the Company shall not be reduced under or by reason of said amendment.

IN WITNESS WHEREOF, Congoleum Industries, Inc.
has caused its corporate seal to be hereunto affixed and

this Certificate to be signed by Terry L. Morton, its Vice President, and Patrick P. Oliver, its Assistant Secretary, this 18th day of August, 1986.


By:


Terry L. Morton
Vice President

[Seal]

ATTEST:

By:


Patrick P. Oliver
Assistant Secretary